

## Category One Case Studies

### Jefferson Parish, Louisiana

Prior to most dispositional hearings, the juvenile probation department (known as the Department of Juvenile Services) in Jefferson Parish, Louisiana produces a comprehensive pre-dispositional investigation report as ordered by Juvenile Court. This report synthesizes social, legal, psychological, and educational histories and assessment information into dispositional recommendations to the court. A youth's mental health information, including any need for behavioral health services, is an essential component of the report, for determining whether the focus of interventions should be on mental health need and/or criminogenic need to prevent further penetration into the juvenile justice system. The investigating officer in this case was aware that although state law allows access to a wide range of information for the purpose of conducting a pre-dispositional investigation for Juvenile Court, mental health information was protected by HIPAA. Consequently, a consent form to obtain the form was completed according to department procedures.

Upon attempting to gather a mental health history for the adjudicated youth, the investigating officer was told by the local mental health provider that the consent form was not completed correctly. The mental health provider employed a patient records clerk who believed HIPAA consent forms required a witness's signature. As a result, the mental health history of the pre-dispositional report was not able to be completed until the consent form was approved by the patient records clerk.

In this example, the patient records clerk misunderstood the required elements of a HIPAA-compliant consent form. Through previous work experience, the clerk assumed that a witness's signature was required in order for the consent form to be properly executed. As a result of this misinformation, vital information regarding the mental health history and future intervention recommendations would have been omitted from the final report, which would potentially have had serious implications for the successful outcomes for the youth and family.

Fortunately, prior to this case, stakeholders in Jefferson Parish, LA – including the Children & Youth Planning Board, Department of Juvenile Services, the Juvenile Court, and the local mental health provider -- realized that there was a lot of misinformation about what was permitted and prohibited by laws such as HIPAA, and other state and federal confidentiality laws. Such misinformation was a major barrier to better planning and coordination for youth who come into contact with the justice system.

To address these barriers, the Children & Youth Planning Board created an Information Sharing Workgroup tasked with developing tools and protocols for juvenile justice information sharing. This workgroup created a **catalogue of information sharing laws** and a **memorandum of understanding (MOU)** for juvenile justice information sharing. (The MOU is found at Appendix B of **Developing a Juvenile Justice Information Agreement: Process and Pitfalls** by John S. Ryals, Jr.) The MOU included a HIPAA and FERPA compliant consent form for use by each of the nine signatory agencies, which included the local mental health provider. This workgroup also identified key elements of consent forms as required by Federal laws. Their work led to the creation of a document that identified specific elements required for consent forms used by various members of the collaborative.

Upon learning of the patient records clerk's position regarding her perception of HIPAA requirements, the investigating probation officer contacted the Information Sharing Workgroup chairman. The probation officer expressed frustration over trying to obtain information with a valid consent form and the clerk's refusal to release the requested mental health history. Information gathered for the

products described above was used to clarify to the patient records clerk that a witness's signature was not required by referencing the HIPAA section that listed all the consent form requirements. Upon learning that HIPAA did not require a witness's signature for consent forms, the information was released to the investigating probation officer for completion of the pre-dispositional investigation report.

## **Clark County, WA**

School districts in Clark County often refer youth who are the subject of a filed truancy petition to a community based program – the Clark County Truancy Project -- for case management services. The Juvenile Court and all nine school districts in Clark County contract with this agency to offer truancy interventions for youth. The program's goal is to increase school attendance by providing education and support services as part of a graduated response plan developed for the youth. The program substantially reduces the need for the court to invoke contempt proceedings, which is limited to those exceptional cases in which alternative interventions have failed to address persistent truant behavior.

Clark County has a strong history of agency collaboration to support youth who touch multiple systems. However, agency staff across different service systems are often confused about what information can be shared, with who and when. Agencies may share similar responsibilities to support the same youth and families, yet they may feel intimidated by their legal obligations to protect confidentiality. In some circumstances state law (Revised Code of Washington – RCW) and federal law (HIPAA, FERPA, and CFR) actually allow and support the exchange of information between systems much more readily than is generally understood.

Clark County gathered a large of key stakeholders who set as a goal an increased understanding of what information can and must be shared between youth-serving systems, including how and when, in order to successfully serve youth who are manifesting their life challenges through truancy. The collaborative worked to increase communication between child serving agencies through information sharing protocols and agreements. The stakeholders include:

- Clark County Juvenile Court
- Clark County Indigent Defense Counsel
- Clark County Prosecuting Attorney's Office
- Washington State Attorney General's Office
- Evergreen Public Schools
- Vancouver Public Schools
- Battle Ground Public Schools
- Educational Service District 112
- Clark County Truancy Project
- Washington State Children's Administration, Region 3
- Washington State Juvenile Rehabilitation Administration
- Clark County Youth House
- Clark County Regional Support Network
- Clark County Community Network Board
- Columbia River Mental Health Services
- Lifeline Connections
- Vancouver Police Department
- Washington State University Vancouver
- YWCA of Clark County - CASA

The Clark County Truancy Project is neither a court nor a school agency, which made it difficult for project staff to access historical and current information regarding the student's school status or about previous court interventions for case assessment, planning and integrated service delivery. At the same time, school and court staff wanted access to Truancy Project information. For example, the Truancy Project began using a screening tool to identify mental health and drug and alcohol issues in order to fast-track youth to needed services. On occasion, school staff wanted access to this information for the student. Consequently, the collaborative had to address whether and when mental health and drug and alcohol related information should be disclosed to schools and courts

The collaborative engaged the assistance of legal counsel from schools, court, and other child serving agencies to help craft solutions. Specifically, the collaborative identified and assembled legal counsel for key stakeholders to examine federal and state laws and regulations (Family Education Rights and Privacy Act, Health Insurance Portability and Accountability Act, Revised Code of Washington), formal agency policies and existing interagency agreements that affect interagency and multi-system information sharing. The legal counsel group provided consistent direction and guidelines through the development of numerous information sharing tools. They also participated in a multiagency information sharing training and fielded questions from agency line staff.

To date, the Clark County information sharing initiative has made the following advances in support of its goals:

- **Uniform Consent Form:** An Authorization for Disclosure/Release of Information for Protected Health Information form was developed incorporating the required elements for a valid authorization. A sample of the form was made available in the Information Sharing Resource Guide and explained in detail at the local information sharing training.
- **Automated Case Management System:** The system, called C3MS, provides the Juvenile Court with centralized collection and management of data, as well as the ability to generate customized reports eliminating the need to hand pull and aggregate data from multiple systems or paper files. The Truancy Project staff have been provided with secure access to a domain specific module within C3MS which replaced their existing system, File Maker, and provided real time information sharing with the Juvenile Court. C3MS functions include recording and monitoring assessments, case plans, social service agency referrals, appointments, and a journal to record notes and activities. With assistance from Clark County's Civil Department, an interagency agreement to authorize access and share information through C3MS was written and approved by administrators from the Clark County Juvenile Court and ESD #112.
- **School Software System:** The Truancy Project staff were provided access to Skyward, the school software system used by Clark County school districts, to access real time information related to attendance, discipline, and grades.
- **Clark County Information Sharing Resource Guide:** Created a document that provides information for legal, policy, and practice matters regarding the exchange of case-related information necessary for joint case assessment, planning and integrated service delivery.

- **Data Sharing Agreements and MOUs:** Agreements and MOUs needed to support youth as they move through the truancy process were developed between the Juvenile Court and the Truancy Project and between each of the school districts and the Truancy Project. The agreements with each school district are derived from a general template with little variance. The focus is on providing a seamless transition as youth navigate through systems by removing barriers to information sharing and encouraging integrated case planning.

## Florida

A statewide workgroup was convened with the goal of integrating school system data into the child welfare data system, so that both case workers and foster parents could have timely information about a child's attendance, special education meetings and performance in school. The workgroup includes representatives of the Florida Department of Children and Families, Department of Education, community-based care agencies, various foundations and child advocates.

In the past, the Department of Children and Families was unable to access timely school information about foster children enrolled in local school systems. Although child welfare case workers could access historical information by special request, it was difficult and time consuming. School officials were concerned that sharing data would violate FERPA.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) requires that child welfare staff work closely with school systems to ensure that a child's educational needs are being met. The statute includes a case plan requirement to assure educational stability for children in foster care, and requires that the child welfare agency assure that each child is attending school full time or has completed secondary school. Our primary goal was for case workers to have ready access to the educational progress data for each child to ensure their educational case goals were being met.

Most child welfare staff held a widely shared misperception that laws creating the SACWIS (State Automated Child Welfare Information System) specified that only data entered by child welfare workers was permitted. (See Public Law 103-66, Public Law 104-9, Section 479 of Title IV-E of the Social Security Act.) By going back to the statutes that created SACWIS systems, the workgroup was able to dispel the myth. The statutes are quite clear that SACWIS systems should be designed to exchange data with other systems.

In addition, when the workgroup began the project, FERPA was "silent" on educators sharing information with child welfare workers. It neither permitted nor prohibited the sharing of information with child welfare workers. Then in January 2013, the Uninterrupted Scholars Act (USA) amended FERPA to make it easier for child welfare workers to access educational data. With the amendment, the Florida Department of Education was willing to work with child welfare on a data sharing project. The Department of Children and Families entered into a separate MOU with each of the 67 school districts to facilitate the provision of education information to the department.

The project then evolved so that information was flowing in both directions. The project began with the child welfare system asking for information about children in its care; the schools were not interested in receiving any child welfare information. The data exchange was one way. But as the Department of Children and Families began drafting the MOU's with each school district, the schools began asking for an actual data exchange, i.e., to receive placement data, contact data and information on chronic illnesses from the child welfare system.

Once the Department of Children and Families had access to the education data, the department came up with the idea to send foster parents email notices of grades, suspensions and absences, thus enabling them to be better partners in ensuring school success for the children in their care. The Department educated itself on what education information could be re-disclosed to foster parents under FERPA and state statutes permitted to be "re-disclosed" to foster parents and make it part of our MOU's. The MOU

with each school system also had to include how each school system was going to “re-disclose” child welfare data to which school staff. The [Child Abuse Prevention and Treatment Act \(Public Law 93-247\)](#) does not prevent re-disclosure but leaves it up to state statute. Florida law permits sharing of child welfare data with school “liaisons” and principals and permits re-disclosure to additional staff only on a “need-to-know” basis.

The state workgroup realized that understanding the privacy laws, getting agreement on objectives from stakeholders, putting MOU’s in place and initiating a data exchange does not mean the work is complete but part of a continuum of progress. Now that the group has the data exchange working in a few districts, the group is discussing how to best use the data. The data is already being used to inform case workers and foster parents on daily absences, tardiness and suspensions, satisfying the workgroup’s our primary goal. However, the work of changing practice and strategies for intervention is just beginning. To that end, the work group has identified 19 specific outcomes and 98 data elements that it wishes to track on an aggregate basis to inform changes in program and policies going forward.