



CHILD WELFARE - JUVENILE JUSTICE SYSTEMS INTEGRATION INITIATIVE



A Guide to **Legal and Policy Analysis for Systems Integration**

Jessica K. Heldman

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Through the support of the John D. and Catherine T. MacArthur Foundation, CWLA established the Juvenile Justice Division in July 2000 with the objective of supporting the education of juvenile justice, youth-serving organizations and agencies, and CWLA members in state and local jurisdictions throughout the United States regarding the:

- connection between child maltreatment and juvenile delinquency, and
- need for an integrated approach to programs and services across the child welfare and juvenile justice systems (and including mental health, substance abuse, and education).

The outcome of this effort is directed toward developing improved cross system coordination through the implementation of reformed statutes, policies, procedures, protocols, and practices. The focus within a state or local jurisdiction can be in areas of (1) coordination of data, (2) information management, (3) case planning and management, (4) consolidation of resources, and (4) legal system statutes and policies to improve outcomes for these dual jurisdiction and/or multi-system children, youth and families. Within a 5 phase framework for strategic planning, detailed in the *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration: Framework for Improved Outcomes* (CWLA Press 2008; by Janet K. Wiig, with John A. Tuell), designed to improve outcomes for dual jurisdiction and/or youth families that populate multiple youth systems, CWLA has developed tools and resources that assist state and local jurisdictions in this effort.

A Guide to Legal and Policy Analysis for Systems Integration (Guide), written by Jessica Heldman, is an additional tool and resource for state and local jurisdictions to use and offers a structured and organized framework to complete this detailed analysis. Jessica Heldman has served as the legal consultant for CWLA in the Child Welfare-Juvenile Justice Systems Integration Initiative and has either led or co-facilitated the work of a Legal and Policy Analysis Subcommittee convened in jurisdictions participating in this Initiative. Her knowledge, professionalism, and enthusiasm have served the development of this work and the *Guide* in an extraordinary manner. The document also reflects the knowledge, experiences, and expertise of participants from numerous state and local jurisdictions that have been a part of efforts to research and examine legal, regulatory, policy, and procedural matters that either preclude or support enhanced systems coordination.

I think you will find this publication to be an excellent tool and an invaluable resource to the dedicated professionals who wish to address the sometimes complicated work to improve multi-system coordination and collaboration on behalf of the children, youth, and families that are so often engaged in multiple youth serving systems.

John A. Tuell, Director
CWLA
Child Welfare-Juvenile Justice Systems Integration Initiative

Systems Coordination and Integration

Research has recently confirmed what practitioners have known for years: that there is a link between child maltreatment and delinquency and therefore the systems created to address these issues are undeniably related. The child welfare and juvenile justice systems often serve the same clients, respond to many of the same issues, and share many of the same goals. However, these systems have traditionally operated in seclusion from one another.

Communities across the country are acknowledging the link between these two systems and are responding by bringing agencies together to consider how they can best serve their common clients, often referred to as dually involved youth. Such collaborations focus on eliminating the duplication of assessments and services, providing seamless processes easily navigable by families, reducing the time spent in detention, strengthening families and stabilizing home environments, reducing recidivism, and improving overall outcomes for dually involved youth. To reach these goals, communities are developing interagency strategies such as pooling resources, increasing information sharing, formalizing interagency case coordination, and establishing cross-systems training of staff.

Undertaking these system improvements is a challenging task. The Child Welfare League of America (CWLA) has developed a process to assist jurisdictions in integrating their systems and achieving the goals listed above. This process is detailed in the *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration: A Framework for Improved Outcomes*. The *Guidebook* offers strategies through which communities can assess their strengths and challenges, create partnerships to enhance their strengths and address their challenges, and devise a plan through which their unique system goals can be met.

Throughout the *Guidebook*, emphasis is focused on the breaking down of barriers between systems. Some barriers are structural and some are cultural; some are real and some are perceived. Legal issues are consistently identified by those working within the systems as some of the most common and concerning barriers to effective coordination and collaboration. There are strong and long-standing beliefs about what kind of interagency communication is legally allowable, what is restricted, how law and policy define the roles and responsibilities of each involved agency or entity, and how agency mandates can best be met. Including a legal and policy analysis as a component of systems integration can help to address these issues and begin a dialogue that opens the door to new ways of thinking, and therefore new ways of doing business on behalf of children and families.

The Role of Legal and Policy Analysis

The legal and policy framework in any community can provide support for efforts at systems integration as well as create barriers to such efforts. Support may be in the form of a statutory purpose or policy that articulates legislative support of goals shared by the systems integration effort. Barriers may be in the form of statutory language that restricts the sharing of information essential to case coordination, or policies that fail to clearly articulate confidentiality or information sharing guidelines. Such supports and barriers impact the ability of agencies and entities that serve families and children to work together to determine how best to serve their common clients.

Many communities grow accustomed to hearing and believing that laws and policies restrict their ability to share information, pool resources or devise innovative multi-agency programs or protocols. A legal and policy analysis can serve to challenge such entrenched thinking by unearthing helpful provisions and offering new interpretations of already known provisions. Those who choose to take on the task of legal and policy analysis have the opportunity to create new possibilities for interagency understanding and collaboration. This was the experience of the King County Systems Integration Initiative, detailed in the next section.

The King County Experience

King County, which includes the city of Seattle, undertook an ambitious project: bringing together leaders from child welfare, juvenile justice, community services, education, and other child-serving entities to consider how to better serve the children who are their common clients. The participants in this initiative committed to taking a candid look at their current practices, and to developing a creative vision for reform.

With the assistance of CWLA consultants, King County developed a work plan that included well-defined goals and an organizational structure to support the pursuance of these goals. Following the strategy outlined in the *Guidebook*, an Executive Steering Committee was formed. In addition, local participants were divided into three subcommittees: the Resources Subcommittee, the Data and Information Subcommittee, and the Legal Analysis Subcommittee. These subcommittees still currently exist, each contributing to the implementation of the strategies developed as a result of the planning phase of the initiative.

The Legal Analysis Subcommittee consists of attorneys in the field of juvenile law, including defenders representing juveniles in dependency and delinquency proceedings, attorneys representing the social workers and the county, and other local attorneys with expertise in the policy and practice of juvenile law. The goal of the subcommittee during the planning phase was to undertake a thorough examination of the legal landscape in King County and

how it impacts the ability of the child welfare and juvenile justice systems to collaborate on behalf of their common clients. Furthermore, the subcommittee intended to craft recommendations, based on a complete understanding of the relevant laws, for improving and encouraging systems collaboration.

The role of legal analysis evolved throughout the process. First, it became clear that all efforts for restructuring and reform relied upon a clear understanding of the limitations and allowances under the law, and it was the responsibility of the Legal Analysis Subcommittee to provide this understanding. In addition, the various subcommittees utilized the expertise of the Legal Analysis Subcommittee as they encountered legal issues in their own work. Finally, as new protocols, policies, and structures emerged throughout the project, the Legal Analysis Subcommittee was able to identify potential legal barriers that had to be addressed and consider the necessity of steps such as proposing statutory reform.

The legal analysis component in King County became a driving force for much of the work of the entire initiative. Once the Legal Analysis Subcommittee identified statutory provisions that supported the sharing of information between agencies, other committees and the executive leadership were free to explore the development of new strategies for coordination. Such strategies include the development of a shared data system and protocols for multi-agency coordination. This work and the products derived from the project provided the template for the process outlined in this guide.

The Guide

As King County reached its implementation phase, other jurisdictions were beginning their integration initiatives with the support of CWLA. The purpose of this manual is to provide guidance in identifying and addressing legal and policy issues that will likely arise in any community undergoing systemic change. The information contained herein is based on the direction given in the *Guidebook* and the refinements made as a result of the experiences of legal and policy committees formed in a number of communities. Throughout this guide, examples of the successes and challenges encountered in differing communities, in response to differing goals, are highlighted.

This manual is not intended as a comprehensive legal analysis or an authority on federal and state laws. It simply offers an explanation of the role of legal and policy analysis in system integration efforts and an overview of the process as experienced in several communities. It offers a structure within which legal information pertinent to systems integration efforts can be gathered and analyzed, resulting in the development of recommendations and action strategies that will support the goals of a larger initiative.

This manual presents steps in the process chronologically. However, this work can be divided among several participants, and steps can be undertaken simultaneously. It is

essential that each community take the time to assess their own unique goals, and adjust this template to best assist them in meeting those goals.

The spirit of this guide is to encourage communities to begin viewing the legal framework as a landscape of opportunity rather than limitation; a set of tools that can be utilized to bring people and organizations together rather than drive them apart. The essential work of this process is relationship-building, consensus-building, and shifting the paradigm within child-serving systems to a belief that coordinated efforts are possible. With this spirit in mind, the following steps are presented to provide structure to the journey.



Create a Committee

The first step in the process of legal and policy analysis is determining who is best suited and most willing to do the work. Ideally, a committee of professionals knowledgeable and experienced in local law and procedure should be identified and brought together. It can also be helpful to engage the support and guidance of one person who is able to commit extensive time to the project, whether a local participant or an outside consultant.

The importance of a committee cannot be overemphasized. Diverse professionals have access to and knowledge of various laws and practices. Each professional also has his or her own network of co-workers with valuable resources and experience. A committee structure provides an opportunity to bring together professionals that may often work in opposition to one another, representing agencies or organizations with fundamentally different goals and missions. It is this diversity in backgrounds and philosophies that can contribute to the depth of the analysis and lead to the resolution of long-standing issues.

In addition, having a group of legal professionals involved can legitimize the work of the entire project. When local legal professionals such as defenders, prosecutors, attorneys general, agency counsel, judges, and legislators demonstrate their commitment to an integration project by being part of a committee, it signals to others that the project participants are willing to confront many of the most complicated and contentious obstacles to collaboration. Furthermore, the involvement of legal professionals gives project participants' confidence that their work is legally valid, and reassures those outside the initiative that the recommendations generated by the project can be implemented within the bounds of the law.

Composition of the Committee

The committee should consist of legal professionals who can contribute time, resources, and credibility to the project. It is essential that membership include those who have authority to speak for their organization, as well as those who have a direct connection to the line staff who will likely be implementing many of the action strategies developed by the group. In addition, it is important to include those who develop and those who implement the policy for each involved agency. Most front line staff rely on agency policies that interpret relevant statutes rather than the specific statutory language itself. Therefore, a

major task of the group is likely to be an analysis of whether agency policy is consistent with statutory guidelines and accurately and effectively communicates these guidelines.

It is critical at this stage to consider the role of the educational system in the overall initiative. In every community that has implemented this process, the stakeholders, including parents and youth, have emphasized the importance of education in securing better outcomes for children involved with multiple government systems. Education is a key component in preventing and diverting juveniles from criminal acts. In addition, there are challenges to ensuring educational success for children in out of home placements. There are important federal and state laws that address the use of educational information and the provision of services to children with disabilities, both of which will likely impact any plan to improve the functioning of the child welfare and juvenile justice systems. Therefore, those staffing the committees should consider the inclusion of education officials and staff in every aspect of this process, especially the legal analysis component.

The size of the Committee is another important consideration. There must be a balance between including all necessary members while keeping the group manageable and able to come to resolutions in a timely manner. The recommended size is between 12-15 members.

Sidebar

In King County, the committee began very small, with five members committed to the planning phase. Additional members were added during the implementation phase. In Connecticut, the legal analysis roster consisted of more than 30 members, but a core group of approximately 15 emerged through the planning process.

The following checklist can help to ensure diverse and complete representation on the committee:

- Legal counsel associated with the participating organizations and agencies
- Attorneys working for legal organizations in your community that are directly involved with juveniles in both the dependency and delinquency arenas, including:
 - Public defenders or other attorneys charged with representing juveniles in delinquency or dependency matters
 - Attorneys representing local child welfare agencies and employees
 - Prosecutors who charge juveniles in delinquency matters.
- Those from within each agency who develop policy – this may be legal counsel or others within an administration

- Other professionals involved in law and policy regarding child welfare or juvenile justice in your community, including:
 - Public officials
 - Judges
 - Child advocates within the legal community
 - Academic professionals such as law professors.
- Non-legal professionals such as administrators and line level staff

Co-Chairs: The Importance of Leadership

One of the most important strategies for a committee's success is identifying appropriate individuals to lead the group. Individuals that are highly respected, open-minded, and willing to put in extra time and effort will set the tone for a hard-working and productive group. It is recommended that the local leadership identify such individuals prior to the committee's first meeting and invite them to take on this leadership role.

Sidebar

In King County, it was decided that the co-chairs at the implementation phase should be two individuals representing the two systems seeking to be merged. Thus, an Assistant Attorney General, representing the child welfare agency, and a Public Defender, representing juvenile defense, shared the duties of chairing the committee. In Connecticut, the local leadership identified the Supervisor for Juvenile Prosecutions of the Office of the Chief State's Attorney as one of the initial co-chairs. It became apparent very quickly that this individual was greatly respected by all involved, and known specifically for his open mind and excellent work ethic. This set a tone for the dedication and productivity of the group throughout the process, which was further supported by the leadership of the later identified co-chair, a passionate attorney from a local child advocacy center.

Co-chairs will be responsible for attending each meeting, therefore emphasizing the importance of commitment to the process. Co-chairs will also be responsible for communication with any outside consultants or administrative leads for the project. If the committee chooses to utilize a workgroup structure, the co-chairs will be expected to coordinate with workgroup leads in order to ensure tasks are being accomplished and goals are being met.

Responsibilities of the Committee

One of the greatest challenges in creating true systemic change is the time commitment required. Those charged with the work of planning and implementing such change are already busy professionals whose current responsibilities often require more than a full time commitment. Nevertheless, it is important that members of the committee are willing to put in the extra time and effort required to meet the goals of the initiative. Those recruited should have a clear understanding of what will be required of them. Considerations should include:

- Monthly committee meetings held in person or by phone;
- Quarterly meetings held in person with the entire body of the systems integration project;
- Interim tasks that must be completed between meetings such as researching and writing reports;
- The likelihood of additional meetings being scheduled near the end of the process in order to ensure that deadlines are met.

In addition to the time commitment, there must be willingness among members to engage in honest, thoughtful discourse about the legal and policy issues surrounding the integration effort. This requires that participants assess the strengths and weaknesses of their own agencies and listen to the critiques of others. Participants must work to balance their own philosophical ideas and ethical commitments with the overall goals of the integration plan. This may be a difficult task - a seemingly impossible task - but it is in the conversation among diverse professionals that true collaboration is born.

Workgroup Structure

After the committee is formed, the initial meeting will provide a forum for members to discuss the legal issues most relevant to the overall initiative. This process is detailed in the following section. Once the group identifies the issues to be addressed, it is advisable to adopt a workgroup structure. This allows a manageable number of members to tackle one issue in depth.

Sidebar

In Connecticut's Joint Juvenile Justice Strategic Planning Initiative, the Legal Analysis Subcommittee members adopted a workgroup structure based on their areas of expertise. The attorneys in the group comprised the Statutory Workgroup, while the administrators and agency staff members comprised the Policy Workgroup. In the city of Baltimore, the Subcommittee formed workgroups based on topic area. The group divided into the Information Sharing/Confidentiality Workgroup, the Court Processes Workgroup, and the Co-Committed Youth Workgroup.

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The workgroup activities can be undertaken between committee meetings, and can be reported on to the larger group for discussion and decision making. This is discussed further in Step Two of this Guide.

Identify Legal and Policy Issues

Developing Outcomes

Those who make up the Legal and Policy Analysis Committee will bring a wealth of knowledge to the table. They will likely be professionals with years of experience working within the community, addressing various legal and policy issues that arise as the child-serving systems evolve. This part of the process honors that experience by inviting committee members to share their opinions about which legal and policy issues they believe will impact efforts at systems coordination and integration.

In order to frame initial discussions, the group should be provided with, and spend time reviewing, the goals of the overall initiative. The lead agencies will often have documented the goals, objectives, and an overall vision for the project. Any materials to this effect should be introduced early in the first meeting, and periodically revisited as the work of the committee continues. With that context, the committee should begin to discuss desired outcomes for their work within the initiative. Proposed outcomes may be somewhat general, such as improving communication between child-serving agencies, or quite specific, such as reducing the rate of dually involved children being detained by a specified percentage. The materials provided by the lead agencies can help to determine the requisite specificity of such proposed outcomes.

Discuss Potential Issues

Once the scope of the project is reviewed and potential outcomes are developed, the group can begin an open discussion to identify and prioritize the pertinent legal and policy issues. It is important to allow discussion to flow, and to permit “thinking big.” However, the legal group must also keep in mind the overall goals of the agencies or entities that have brought them together to do this work, and consider how best to support those goals. It is likely and understandable that many participants will come to this process predisposed to working on certain issues most pertinent to them or their organization. However, it is the work of the group, led by the co-chairs, to discover the nexus among the participants’ concerns.

Common themes regarding legal and policy issues will arise. Work in several jurisdictions has confirmed the following likely recurring topics:

- Information sharing/confidentiality concerns that can impact coordinated case management and service delivery as well as efficient and effective court processes
- How specific state statutes define the goals, practices, and procedures of the state's child serving systems and how these provisions impact the ability of agencies to work together
- Whether agency mandates are clear, communicated to staff, and met by the agencies, including whether it is understood which system is responsible for the legal and physical custody of a child involved in both child welfare and juvenile justice
- Whether/how court practices impact the ability of agencies to effectively serve clients, and whether the court is supporting or can support interagency strategies
- How resources are allocated between child welfare and juvenile justice systems and the extent to which resource allocation impacts systems integration
- Legal issues surrounding the development of information management systems

Sidebar

In King County, the Legal Analysis Committee chose early in the process to concentrate on information sharing as its main area of focus. This proved to be very useful to the overall initiative, as many of the barriers to coordination and cooperation were rooted in a misunderstanding of the legal parameters for information sharing. Therefore, the findings relating to this issue provided an impetus for the development of numerous strategies for coordination and training by other committees. Long standing barriers were confronted with a new understanding that state statutes allowed for certain information to be shared. This opened the door for conversations regarding new ways of doing business on behalf of multi-agency clients.

It is likely that all of these issues will not be present in every community. However, this list reflects the legal aspects of coordination and integration that must at least be discussed. These issues should be considered in light of the goals of the overall initiative, as well as in light of the personal experiences of the committee members. The following questions can guide the group in its discussion regarding some of the themes above:

Information Sharing:

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- Is there specific statutory language addressing the sharing of information between the child welfare and juvenile justice systems? If so, are the statutory guidelines clear? Do statutory guidelines support or hinder the sharing of necessary and appropriate information? Do statutory guidelines adequately protect the privacy interests of juvenile clients?
- Is there policy addressing the sharing of information between systems? If so, do the policies accurately reflect the current statutory guidelines? Are the policies written clearly and kept in a format that can easily be accessed by staff? Do policies support or hinder the sharing of necessary and appropriate information?
- Is there a mechanism or a procedure through which workers in the juvenile justice system can receive information about their clients who are being served by the child welfare system? Which workers in the child welfare system can receive information regarding a client who has come into contact with the juvenile justice system? Is it clear what information can be shared through such a mechanism?
- Have committee members had difficulty accessing necessary information from certain agencies or entities? Have they been made aware of other parties experiencing difficulty with specific organizations?
- Has the state or have the participating agencies addressed the effect of federal laws such as HIPAA or FERPA on the availability of information?
- Have accurate guidelines for interagency information sharing been explained and well-promoted among staff?
- Are parents, family members and caregivers well-informed about how their privacy is protected and their ability to consent to the sharing of confidential information between the agencies by which they are served? Have staff been trained regarding obtaining informed consent?
- Are information sharing systems currently in place or being developed? If so, what process was utilized for assessing the legality of its design and functioning?

Legal Mandates:

- Are there specific legal mandates requiring interagency or multidisciplinary coordination and collaboration in order to address certain issues, populations, or circumstances? If so, have these mandates been met?
- Have the participating agencies and entities identified where there is existing overlap in legal mandates, including state statutes that define the goals, practices, and procedures of the state's child serving systems, thus providing natural areas for coordinated efforts?

- Have the participating agencies and entities identified where there are existing conflicts in legal mandates, including state statutes that define the goals, practices, and procedures of the state’s child serving systems, thus creating potential barriers to coordination and collaboration?

Resource Allocation and Funding:

- Have the participating agencies and entities identified funding sources provided by the federal and/or state government that specifically support system integration?
- Have the participating agencies and entities identified which funding sources legally allow blending of funds with other agencies?
- Have the participating agencies and entities identified which funding sources are legally restricted to supporting activities of only one agency or program?
- Have the participating agencies considered ways in which existing resources can be shared that do not require obtaining new and additional funds?

Court Processes:

- Is there a mechanism for notifying the child welfare system when one of their clients makes contact with the court due to a delinquency matter?
- Is there a mechanism for ensuring the judge handling a case in one system has access to the information in possession of the other system?
- Are the appropriate representatives present in court at each hearing (e.g. are social workers notified of and present at delinquency proceedings)?
- Does the court utilize a “one family/one judge” model? If not, has this approach been considered?
- Does the court require any coordinated efforts between agencies such as joint case or treatment plans? If not, would the juvenile court judges be likely to consider requiring such measures?

Sidebar

The Legal Analysis Subcommittee of the New Mexico Blending Systems Initiative determined that a focus on court processes would best benefit the initiative. The committee mobilized to support a “one family/one judge” pilot project already underway and to develop policy to ensure that social workers (or other identified supports) are present at delinquency hearings to reduce the risk of foster care bias in dispositional decision-making.

Prioritize and Organize

Once the legal and policy issues are identified, the goal is to prioritize them. Given the overall framework of the systems integration initiative, which issues must be addressed to ensure success of the final plan? Experience with communities undertaking system integration has confirmed that a likely top priority is information sharing. Many communities have discovered that misunderstandings about what information can be shared, and with whom, create barriers to the appropriate sharing of necessary information. This can impact whether efforts at coordination and collaboration are ultimately successful.

However the legal and policy issues are prioritized, these choices will inform the scope of the legal research. It is at this stage that instituting a workgroup structure is suggested. The three or four top issues can provide the basis for the development of corresponding workgroups. When participants self-select the workgroup on which they would like to serve, they are given the opportunity to focus their efforts in an area in which they have specific interest. Adopting such a workgroup structure also increases the likelihood of each topic area receiving sufficient investigation. The steps for such investigation are detailed in Step Three: Researching the Law.

Research the Law

A central goal of the Legal and Policy Analysis Committee is to gain an understanding of how federal and state laws shape collaborative and coordinated efforts between child-serving entities. This requires an understanding of the rules set out by these laws as well as the underlying purposes and goals of pertinent legislative and administrative mandates.

The purpose of this initial period of research is to obtain a general overview of the law in order to develop a meaningful protocol for participant interviews, as outlined in step four, and to continue identifying legal issues that may arise for the system integration effort as a whole. Further research will occur later in the process. It is worth reiterating that a workgroup structure is advised for undertaking this work in order to keep the workload manageable and the participants focused. The steps for this initial research phase are listed below.

Consult Secondary Sources

Secondary sources such as books, articles, and reports can be helpful in the first stages of legal research. Such sources detail the work and conclusions of other researchers who have previously tackled many of the same issues the Legal and Policy Analysis committee will likely confront. Reviewing relevant publications can help to define the scope of the group's research, prepare the group for challenges other researchers have encountered, and provide the group with lists and summaries of laws and resources helpful to its work. Finding secondary sources is as easy as conducting an internet or library database search using relevant keywords and phrases such as "child welfare," "juvenile justice," "mental health," "information sharing," "confidentiality," "systems integration," or any other terms pertinent to the legal issues the committee has identified. These keywords or phrases can be used in combination to produce lists of helpful publications. A list of secondary sources already identified as useful can be found in the **Resources Summary** at the back of this guide.

Sidebar

The Legal Analysis Subcommittee of the New Mexico Blending Systems Initiative concentrated its efforts on developing new court processes to benefit the crossover children in New Mexico. The legal research necessary to accomplish this goal was largely a matter of consulting secondary sources. The review of court processes developed nationwide to address the crossover population sparked ideas and discussion within the group and helped to define workable and measurable goals.

Research Federal Law

Federal and State laws create a labyrinth of requirements and limitations that characterize the legal landscape for systems integration. These statutes, regulations and rules can complement each other, or they can sometimes conflict. The first step in understanding this interplay is to conduct a thorough examination of federal laws, as they have the broadest reach. Federal statutes and regulations address many of the legal issues the committee is likely to consider, such as information sharing/confidentiality, funding structures, and opportunities for interagency collaboration and coordination. The early identification of relevant federal provisions in these areas will lay a solid foundation for later legal research.

What Laws Are Relevant?

The secondary sources examined likely provided lists of federal laws that impact systems integration. As an additional step, refer to the **Federal Law Summary** at the back of this guide. This summary details the results of extensive legal research and is an excellent starting point for understanding the federal framework for collaboration and information sharing.

When surveying federal law, it is valuable to identify those provisions that support coordination, collaboration, and integration. Some provisions articulate findings by the United States Congress that support the overall concept of systems integration. Some provisions create new requirements for coordination and collaboration for states receiving federal funding. Any of these provisions can provide the impetus for the overall integration effort of the community. The following is a quick reference guide to those provisions articulating the federal government’s support of coordination and integration efforts.

FEDERAL PROVISIONS SUPPORTING THE USE OF FUNDS FOR SYSTEM COORDINATION AND INTEGRATION:

Child Welfare/Foster Care/Adoption
<p>Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services – Child and Family Services Statutes - 42 USC 625(a); 42 USC 629b(a)(3)</p>
<p>Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services – Foster Care and Adoption Assistance Statutes - 42 USC 671(a)(4)</p>

Juvenile Justice
<p>Juvenile Justice and Delinquency Prevention Act – Findings Statute – 42 USC 5601(a)(10)(A), (11) Regulation – 28 CFR 31</p> <p>Juvenile Justice and Delinquency Prevention Act – Federal Assistance for State and Local Programs Statute - 42 USC 5633(a)(8), (9)(c), (9)(d)</p> <p>Juvenile Justice And Delinquency Prevention Act – Juvenile Delinquency Prevention Block Grant Statute – 42 USC 5651(a)(1), (a)(2)(g), (a)(10), (a)(13)</p> <p>Juvenile Justice and Delinquency Prevention Act – Title V – Incentive Grants for Local Delinquency Prevention Programs Statute - 42 USC 5783(c)(1)</p> <p>Juvenile Accountability Block Grant Statute – 42 USC 3796ee(b)(10), (12)</p>
Mental Health Services
<p>Mental Health Services Block Grant Statute - 42 USC 300x-1(b)(3)(A)</p>
Substance Abuse Treatment Services
<p>Substance Abuse Prevention and Treatment Block Grant Statute – 42 USC 300x-28 Regulation – 45 CFR 96.132(c)</p>

The above provisions demonstrate the recognition by the federal government that there is a link between child maltreatment and delinquency, and that coordinated, collaborative efforts on the part of public and private agencies are an essential part of any successful approach to delinquency prevention and child well-being. Although such language may endorse or even require integrated efforts, it is important to note that such provisions offer no guarantee that resources will be available to support the actual implementation of coordinated strategies. Despite broadening the purposes for which federal funds can be used, the actual funding for such programs have been drastically cut in recent years. Therefore, it becomes essential for communities to realistically consider how to make adjustments in their current policies, procedures, and practices to make integration and coordination work, rather than relying solely on the development of new and sometimes costly programming.

As identified earlier, information sharing is a central legal issue impacting systems integration and coordination. There are several federal provisions that address the use and maintenance of information relevant to the child welfare and juvenile justice systems. The following table provides a quick-reference guide to several of the most pertinent provisions.

FEDERAL STATUTES AND REGULATIONS THAT IMPACT THE ABILITY OF CHILD-SERVING SYSTEMS TO SHARE INFORMATION:

Child Welfare/Foster Care/Adoption Information
<p>Child Abuse Prevention and Treatment Act (CAPTA) Statute – 42 USC 5106a(b)(2)(A)(v) Regulation - 45 CFR 1340.14</p> <p>Social Security Act Statute - Part E - 42 USC 671(a)(8) Regulations - 45 CFR 1355.21; 45 CFR 1357 et seq.</p>
Juvenile Justice Records
<p>Juvenile Justice and Delinquency Prevention Act Statutes - 42 USC 5633(a)(26)(27); 42 USC 5651(a)(13); 42 USC 5676 Regulations – 28 CFR 22, 28 CFR 31</p> <p>Federal Juvenile Delinquency Act Statute - 18 USC 5038</p>
Health Care Information
<p>Health Insurance Portability and Accountability Act (HIPAA) Authorizing Law - Public Law Number 104-191 (1996); Title 42, Chapter 7, Subchapter XI, Part C</p> <p>Regulations - 45 CFR Parts 160 and 164 (45 CFR 164.502-514)</p>
Substance Abuse Treatment Information
<p>Public Health Services Act Statute – 42 USC 290dd-2 Regulations – 42 CFR 2.13; 42 CFR 2.14; 42 CFR 2.51; 42 CFR 2.52</p> <p>Substance Abuse Prevention and Treatment Block Grant Regulation – 45 CFR 96.132(e)</p>
Education Records
<p>Family Educational Rights and Privacy Act (FERPA) Statute – 20 USC 1232g (20 USC 1232g(b)) Regulations – 34 CFR Part 99</p>
Personal Information
<p>Freedom of Information Act (FOIA) Statute – 5 USC 552</p> <p>Privacy Act of 1974 Statute – 5 USC 552a(b)(1)-(12)</p>

Some of the above listed statutes and regulations specifically address use and disclosure of records related to child welfare or juvenile justice, but many statutes do not. For example, the HIPAA regulations make no mention of child welfare or juvenile justice agencies, and offer no guidance as to whether such agencies are to be considered “covered entities,” thus having to comply with the regulations. This ambiguity requires that a local legal authority, such as an attorney general or agency counsel, make a determination regarding how such federal regulations are applicable to state and local entities.

If the committee has adopted a workgroup structure, it is the job of each group to consider the above provisions in light of its specific topic area. The workgroup should identify which provisions are relevant and consider their impact on continuing efforts.

What Are the Next Steps?

The initial findings of each workgroup will be reported to the larger committee. This is an essential step, as the committee as a whole must consider the impact of the findings and discuss possible next steps. A large part of any systems integration process is consensus-building and it is among the broad representation in the larger committee that conclusions must be agreed upon.

Once federal law has been surveyed, a likely early finding will be that such laws do not create absolute barriers for communities undertaking information sharing and collaborative efforts. Instead, the protections provided by federal law will often allow disclosure in certain circumstances, requiring that reason be shown for disclosure of personal information and that specific procedures be followed. It is the responsibility of the Legal and Policy Analysis Committee to outline these limitations, exceptions, and procedures so that those engaging in the larger project have clear guidance.

Research State Law

Once federal law has been examined, the Legal and Policy Analysis Committee must take a detailed look at state law. State laws will most likely address the relationship between child-serving entities more directly than federal laws. In addition, local participants are more likely to be familiar with state laws, which will contribute to the depth of the analysis. Each state will vary on the extent of interagency collaboration that is mandated, the extent of information sharing and coordination that is permitted, as well as the clarity with which information sharing boundaries are set.

What Laws Are Relevant?

Most states will have specific sections of its code devoted to juvenile courts, child welfare, juvenile justice, education, and health care. Within these sections, there may be provisions requiring multi-disciplinary or interagency efforts on behalf of children and families involved with the child welfare and/or juvenile justice system. For example, a number of states have adopted a Serious Habitual Offender Comprehensive Action Program (SHOCAP). Such programs are a legislative recognition of the importance of interagency

efforts on behalf of at-risk youth. Illinois code includes such language, with the legislature establishing a SHOCAP and defining it as follows:

“The Serious Habitual Offender Comprehensive Action Program (SHOCAP) is a multi-disciplinary interagency case management and information sharing system that enables the juvenile justice system, schools, and social service agencies to make more informed decisions regarding a small number of juveniles who repeatedly commit serious delinquent acts.” 705 ILCS 405/5-145(a).

Within state codes, there will likely be provisions addressing how information is to be kept, what kind of information is confidential, and when information can be disclosed. Consider the following example from the Revised Code of Washington:

“[R]ecords retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.” RCW 13.50.100

This passage is found in Title 13 of the Revised Washington Code, which is entitled “Juvenile Courts and Juvenile Offenders.” This is an example of a statute that deals directly with the availability of records relevant to coordinated efforts. What requires further examination is what the term “juvenile justice or care agency” encompasses. Does this statute allow social workers and probation officers to share records? Teachers and attorneys? In this case, these answers are also found in Title 13. The law provides that a “juvenile justice and care agency” includes all of these participants and more. This is an example of the steps involved in analyzing an important statute.

Most states will have statutes addressing confidentiality of records in general, outlining what is public and what is private. Note that records containing information about juveniles can be dealt with differently based on the information contained in the record. For instance, most states treat court records of dependency proceedings as confidential while court records of juvenile delinquency proceedings are public.

The Committee will also want to look for laws outlining procedures that can be followed in order to facilitate information sharing. Wisconsin provides an example of a statute that explicitly allows agencies to enter into agreements to share information on joint clients. Wisconsin Statute 938.78(b)(1m) states:

“An agency may enter into an interagency agreement with a school board, a private school, a law enforcement agency, or another social welfare agency providing for the routine disclosure of information...to the school board, private school, law enforcement agency, or other social welfare agency.”

Another section of this statute defines “agency” as the Department of Corrections or any child welfare agency. This type of statute can be very useful to a systems integration

project, as it opens the door for the participating agencies to develop a protocol for sharing information.

State law will also offer directives on specific topics such as health care and education for minors. Such statutes will likely address the provision of services as well as the sharing of information. It is important to determine whether the state or federal law is more restrictive, as federal law will preempt a less restrictive state statute. For example, Washington State's Uniform Health Care Information Act states that a health care provider may not disclose health care information about a patient without the patient's written authorization. Given this and other language, Washington's Department of Social and Health Services has determined that state law is more restrictive than federal regulations, thus ensuring health care providers that they will be in compliance with federal regulations if they follow state law regarding confidentiality.

Researchers will want to observe the interplay between federal and state law as they explore the relevant provisions. Some federal laws provide guidelines that must be adopted by state legislatures to be effective. Often the state law will mirror the federal law, or refer directly to it. For example, the Revised Code of Washington states that "School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974." Note that the titles of federal laws can be used as search terms for locating relevant state provisions.

Because each state's laws are organized and labeled differently, there is no definitive method for finding the relevant laws. However, a **State Law Research Guide** is provided at the back of this guide. Essentially, a researcher is going to review the titles of the State Code, noting any that may relate to child welfare, juvenile justice, health care (physical and mental), substance abuse treatment, and privacy. Once these titles are identified, a keyword search will yield relevant provisions.

What Are the Next Steps?

As with the results of the federal law survey, the findings of the state law survey will be reported to the larger committee by the individual workgroups. The committee must discuss how the findings can be utilized to help meet the goals of the initiative and to realize the outcomes developed in the initial meeting. There are likely to be statutes and policies identified that clearly support these goals and outcomes, and the group can discuss how best to make use of these positive attributes of the legal and policy framework. It is also likely that the research will help to identify laws and policies that work against the goals of the initiative and the group can consider what changes and suggestions can be developed to address these obstacles.

It is important, however, that the qualitative research component of the process be undertaken before the group attempts to devise concrete recommendations. The contributions made by those interviewed and surveyed will be essential to enhance the expertise of the committee members and to confirm their conclusions about where strengths and challenges lie in the legal and policy framework. Steps for accomplishing the qualitative research are outlined in the next section of this guide.

Conduct Qualitative Research

One of the more enlightening steps in this process is the interview/survey component. It is an opportunity for committee members to obtain additional insight into how the systems actually function within the current legal and policy framework. It can also help to identify the ways in which relevant laws and policies are explained to and interpreted by personnel at all levels. This step also invites stakeholders outside the committee to contribute their ideas for system improvements based on their unique experiences and knowledge. The ultimate goal is to understand the legal and policy framework from the point of view of those being interviewed. More specifically, interviews and surveys should seek responses in several areas relevant to the work of the Legal and Policy Analysis Committee:

- Identifying current collaborative and information sharing practices, how well these current processes are working, and what obstacles challenge their success
- Assessing respondents' familiarity with laws and policies impacting collaboration and information sharing
- Identifying areas in which laws, policies, or court processes impact the respondents' ability to coordinate and collaborate on behalf of their clients;
- Identifying what assumptions respondents have made or instructions they have received regarding what the law allows or disallows regarding information sharing and collaboration
- Obtaining respondents' opinions on how laws and policies could better support their collaborative efforts

The information gathered can help to define the scope of the legal and policy analysis and spark initial thoughts for recommendations that will be useful to those working within the systems. It is important to stress that the qualitative research undertaken as a part of this process is not intended to produce scientifically valid results. Instead, the goal is to augment the information and opinions provided by the committee members and to consider the results within the context of the committee's own findings. The following steps can guide the development of this component of the committee's work.

Develop a List of Survey/Interview Participants

The first step is to identify those professionals that the committee would like to interview or survey. Ideally, the list should include professionals from all relevant fields and entities, and should represent the various levels of employees, from front-line workers to high-level administrators. The best resources for building this list are the members of the Legal and Policy Analysis Committee and other committees involved in the overall initiative. Note that committee members should be interviewed as well.

The committee must decide upon the most effective method of outreach – surveys, interviews, or a combination of both. Relevant considerations are the quantity of respondents desired, the time allotted for this step of the process, and whether the committee is seeking measurable results or greater flexibility to craft specific questions for each unique respondent. A survey will take less time, reach more respondents, and provide answers that are easier to analyze. Interviews, on the other hand, are more time-consuming and limited in number, but allow respondents to engage in a more open-ended and flexible conversation, possibly yielding a greater depth of understanding.

Sidebar

In the Connecticut Joint Juvenile Justice Strategic Planning Initiative, the Legal Analysis Subcommittee chose to utilize both the interview and the survey formats. Personal interviews were conducted with the administrative heads of every relevant state agency or organization, including education officials, the presiding juvenile court judge, and the head of adolescent services at a state medical center. The interviews were used to discuss the chosen focus areas of the subcommittee and to ensure the support of the leadership. A survey was also developed and distributed to personnel at various levels at each relevant agency. The surveys were used to gather information regarding day to day agency operations as well as the perceptions of those working within the agencies. More than fifty surveys were completed and the responses were analyzed by the Subcommittee as a whole.

There is a considerable amount of planning required for this phase of research. To ensure responses from a broad sample of personnel, it is essential that each committee member consider the best method for identifying and contacting potential respondents within their agency or organization.

Designing Surveys and Interview Protocols

Questions included in either a survey instrument or an interview protocol should reflect the issues identified and prioritized by the committee. **Sample Survey Questions** are provided in the appendix. It is important that a survey instrument not contain too many questions, that it clearly explain the purpose of the initiative it is being used for, and offer respondents the option of anonymity when submitting their responses.

Interviews are most productive when an outline, or protocol is followed. This ensures that the conversation will remain focused, and that important questions will not be overlooked. As was the case in King County, the protocol can evolve throughout the interview process. As interviewees raise new issues, or redefine identified issues, the questions should be adjusted. The goals of the interviews, as listed above, can guide the development of a protocol. Furthermore, the legal research done thus far has undoubtedly raised questions, and this can form the basis for some excellent interview topics.

Distribute Surveys and Conduct Interviews

When distributing surveys, each committee member will determine the mode of distribution that will work best for their agency or organization. Distributing surveys electronically, via email, can have some advantages such as the ability to distribute and collect widely without an overwhelming amount of legwork. However, many potential respondents are likely to ignore emails or put off responding in a timely manner. Identifying select potential respondents and contacting them personally will take more time, but may produce better results. It is recommended that respondents be given no more than a week within which to respond, as allowing too much time will likely result in delayed responses. It can also be helpful to include a communication from an agency or organizational leader endorsing the survey and encouraging recipients to participate.

When conducting interviews, each interviewer will have their own techniques with which they are comfortable. Interviews can be conducted in person or over the phone. They can be recorded or the interviewer can simply take notes. Interviews will average around 30 minutes. Interviews can yield resources beyond simply answers to your questions. Often interviewees can provide or guide the interviewer to important resources such as manuals, written policies or internal memos. Interviewees are also an excellent resource for finding more interviewees. They can often provide references to co-workers they believe would be interested in contributing.

Analyze Findings

Once again, the results of the surveys and interviews are not intended to have statistical significance. However, the committee will find great value in carefully reviewing the findings and considering how they support or conflict with the committee's own conclusions.

There are some particular points of emphasis when reviewing the qualitative research findings:

- Did respondents identify the same or similar legal and policy issues as those identified by the committee?
- Did respondents identify additional legal and policy issues that the committee has not yet considered?

- What assumptions do participants make regarding their ability to share information and engage in other collaborative efforts? What do they base these assumptions upon?
- Are participants familiar with the laws and policies the committee identified as important to the ability to collaborate and coordinate?

When the findings from the interviews and/or surveys are compiled and considered, committee members can continue to conduct a legal and policy analysis based on the suggestions, resources and concerns identified by the respondents. As further research is undertaken, committee members can begin to construct ideas for concrete recommendations addressing the legal and policy issues identified.

Sidebar

Interviews in King County, Washington yielded results showing that most participants were unaware of state laws that supported information sharing, but were acutely aware of federal laws that restricted disclosure, often under penalty of law. Furthermore, while participants were aware that these limitations existed, they were unclear about the exceptions the law provided. Such findings led to the development of action strategies focused on educating workers and administrators involved in information sharing.

Conduct Further Research

At this point, the committee must return to the task of researching the law. After the initial stage of research and the surveys and/or interviews, the committee will have a clearer idea of which laws and other resources are relevant to its work and can therefore begin a more in-depth analysis.

Organize Resources

At this point the committee has likely acquired a collection of resources requiring review. Interviewees may have pointed to relevant policies, manuals, and written protocols; additional pertinent legal provisions may have been suggested or discovered; case law might have developed or legislation passed; questions may have arisen from the work of other committees; and interviewees may have referred to other programs or reform efforts that warrant examination.

It is important to identify the possible relevance of any sources that have not yet been considered. Case law, court rules, professional codes of ethics, and attorney general opinions are all possibly significant to the analysis. These sources should be approached in the same fashion as the federal and state laws, using keywords to identify relevant information.

Conduct an Analysis of the Findings

Once the committee has identified and compiled the relevant resources, the process of analysis begins. This stage of the research requires individuals or workgroups, depending on the chosen work plan, to consider all the findings in the context of the goals of the systems integration initiative, the outcomes identified at the outset by the committee, and the areas of focus identified and prioritized by the committee. The following objectives can guide the analysis:

- Identify areas within the legal and policy framework that support coordination, collaboration and integration. Determine whether these strengths are currently being promoted, or if barriers exist to their utilization.
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- Identify the areas of disconnect between what the law actually says and what those working within the systems think it says. Some provisions can be easily clarified, but some may require a legal authority such as an attorney general to make a legal determination. Common areas of misunderstanding include:
 - Whether certain funds can be allocated across agencies for supporting efforts at collaboration and coordination
 - Whether agency mandates leave room for an agency's participation in interagency efforts
 - Whether front-line workers such as social workers and probation officers can share with each other information they have generated about joint clients
 - Whether front-line workers can share with each other client information they have been provided by third parties such as a therapist's mental health records;
 - Whether physical and mental health care providers can share information with social workers, probation officers, and attorneys
 - Whether information can be disclosed to researchers or agencies for data analysis purposes
 - When there are consequences in the law for improper disclosure
 - Whether there is a "good faith" exception to liability
 - What the consequences are for improper disclosure and how frequently they are imposed
 - Whether information disclosed to certain parties becomes part of a juvenile's record and whether this record can ever be permanently sealed
- Determine whether relevant laws and policies are clear or require clarification. Consider whether agency policies accurately reflect the law. Ask the following questions:
 - How does the law support sharing?
 - How does the law hinder sharing?
 - What important interests does the law protect?
 - How do local policies/practices support sharing?
 - How do local policies/protocols hinder sharing?
 - What important interests do the policies/protocols protect?

- Distinguish areas of the law that create absolute barriers to information sharing; areas of the law that require consent or other procedures to be followed in order for information to be shared; and areas of the law where information may be shared without consent.

It can also be beneficial at this stage to extend the research beyond the home jurisdiction. Considering the statutes, programs, and initiatives of other communities can enrich the understanding of issues and help to shape action strategies.

Document the Findings

Finally, at this stage it is a good idea to compile the findings in the form of a report or a summarizing document. The activity of drafting such a document helps to make sense of the vast amount of information that has been gathered, illuminates the important findings, and can reveal gaps or weaknesses in the research. This also serves to organize the information in order to best assist in the next step of articulating findings and goals.

Articulate Findings and Goals

As the workgroups complete their information gathering and analysis, the large group will once again work together in order to formulate the language that can best communicate their findings and represent their desired goals for the plan as a whole.

Findings

Findings are important to articulate clearly and accurately, as they are the statement of the community's strengths and weaknesses regarding integration and coordination. They are statements of the identified issues and the research that confirms the issue exists. It is advisable to begin by listing the positive findings. These can include areas in which agencies and entities are already working together productively, areas in which efforts are underway to develop coordinated strategies, and areas in which the legal and policy framework supports the goals of the overall initiative. Throughout this process, it should be emphasized that already existing effective programs and procedures will be highlighted and recommended for continuation and expansion.

The challenges presented by the legal and policy framework, as discovered through both legal analysis and qualitative research, should then be listed as findings. These can include areas in which workers are not receiving necessary and appropriate information from other agencies, areas in which statutes or policies are unclear or in conflict with other statutes or policies, areas in which statutes or policies create barriers to coordinated efforts between agencies, and mandates or previously made recommendations that have not been implemented or followed.

Sidebar

In King County, Washington the Legal Analysis Subcommittee concluded from their legal analysis that state statutes clearly supported information sharing in most situations between social workers and juvenile probation officers. However, the qualitative research revealed that there was a pervasive fear on the part of these workers regarding sharing information, and that most were not aware of the allowances under state law. These became the subcommittee's first findings.

Choosing the right words to express the findings can be a challenging task. Agency representatives may be concerned about sounding too critical about their agencies and legal counsel may worry about legal implications of any proposed wording. However, an objective of this work is consensus-building, and the group will have to consider each perspective and together choose language that is acceptable to everyone and maintains the integrity of their work.

Goals

Once the language of the findings has been agreed upon, the committee must develop corresponding goals. A goal is a statement of what committee members believe is possible through implementation of the plan. Often goal language can be generated by simply rewording the finding so as to state a commitment to solving the “issue” presented. For example, if the finding is that statute XYZ supports information sharing between agencies but that workers are unaware and uneducated about the statute, the corresponding goal can be that workers in participating agencies will be made aware of and supported in following the guidelines in statute XYZ regarding information sharing.

The creation of a goal is simply the process of answering the question “What do we want to achieve?” It is likely that another body has worked to create general mission and vision statements for the overall initiative, so the goal statements created by the committee should instead be as specific as possible. Achieving this level of detail can sometimes be difficult because of the diverse missions and philosophies of those at the table. Nevertheless, the more concrete the goal statements, the easier it is to develop specific and measurable action strategies.

Sidebar

The Legal Analysis Subcommittee of the Connecticut Joint Juvenile Justice Strategic Planning Initiative worked diligently to create goal statements that addressed the issues they had identified in their research. The group as a whole worked to solidify the language so that it reflected what all participants wanted to achieve. This was at times a challenging task, requiring the alignment of several agencies and entities that traditionally work at cross-purposes, such as the prosecuting attorney’s office and the public defender. In the end, the group agreed upon eleven goal statements that created the framework for numerous action strategies.

Once the goal statements have been created, the action strategies can be developed in order to begin to answer “How do we achieve it?” This process requires significant time and effort to ensure that action strategies create a useful roadmap for achieving the goals that have been set. Guidance for this step is found in the next section.



Create Action Strategies

At this point, the committee has succeeded in gaining expertise in understanding the impact of law, policy, practice, and culture on the child-serving entities in the community. This expertise is essential in the creation of effective and useful action strategies. The action strategies must provide a roadmap for how the participating agencies can achieve the mission, vision, and goals developed during the planning process. The strategies must be realistic but bold; they must be suggestions that transcend politics and culture to move the systems toward a more effective way of doing business with their clients' interests at the forefront.

As the committee develops action strategies, they must take into account the unique features of their community. Model programs and innovative strategies that show promise in one community may not be effective in another. Nevertheless, as more and more communities have undertaken this work, a core collection of effective strategies has developed. The following list includes many of these strategies and can serve to spark discussion among the group as the development of action steps begins. The following themes should be considered:

Developing Infrastructure:

- Several communities, including Pittsburgh, PA and the state of Connecticut, have established interagency groups to review the issue of information sharing in light of the findings of a Legal and Policy Analysis Committee. Such groups can serve to advise agencies on information sharing and to develop interagency strategies for encouraging the sharing of necessary and appropriate information.
 - Interagency groups can also be established in order to provide continued legal support for the implementation of strategies arising out of the overall initiative.
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Sidebar

In King County, Washington, the Legal Analysis Subcommittee determined, along with the Executive Committee, that the Subcommittee should continue to function as an advisory workgroup throughout the implementation of the strategic plan and to develop the resources called for in the plan, such as a field guide to information sharing and a working agreement for multi-system collaboration. In addition, the Legal Analysis Subcommittee served as a legal resource for the implementation of other strategies such as the development of an interagency information system.

Developing Agreements

- Several communities have determined that drafting an interagency agreement can support the goals of coordination and collaboration. Such an agreement can take many forms: memorandum of understanding, interagency agreement, or working agreement. The substance of the agreement can address information sharing, policy development, resource sharing, or other collaborative strategies. This strategy has been undertaken on both the state (*Kentucky*) and local (King County, *Washington*, and Pittsburgh, *Pennsylvania*) levels.
- To deal with one of the most challenging legal issues—sharing health related information—communities have developed a partnership between state medical and behavioral health departments and juvenile justice agencies to determine their responsibilities under the Health Insurance Portability and Accountability Act (HIPAA).

Developing Resources

- A common and extremely valuable strategy can be to develop manuals or field guides that explain state and federal laws governing confidentiality. This can be an interagency effort and can support other efforts, including interagency training. Such an effort has been undertaken on the state level in Virginia, and on the local level in King County, Washington.
- Several communities have recognized the difficulty presented by the use of releasing different information forms by each child-serving agency or entity. These communities have committed to working toward the development of multi-agency releases or universal consent forms. This was a major strategy developed by the Legal Analysis Subcommittee in Connecticut, and has been undertaken in both California and Iowa.
- It can be valuable to request authoritative positions on questions of law in areas that are unclear. Both formal and informal documents clarifying important and

Developing New Policies and Procedures:

- In order to continue to emphasize the protection of privacy within an information sharing effort, communities have developed policies and procedures to ensure that youth understand their rights and their ability to provide consent. Additionally, communities have developed procedures to ensure that parents are given complete details about the process and purpose of information sharing, their right to have copies of the records before they are released, and their right to refuse to release records.
- Several communities have engaged the juvenile court by suggesting that the juvenile court issue orders to guide interagency information sharing.
- In response to the discovery in many communities that information sharing and other collaboration is primarily relationship-based, leading to inconsistencies, many communities have chosen to designate one employee in each agency as the single point of contact for interagency information requests.
- Communities that have focused on court-based solutions have often considered implementing a one judge/one family model. This model essentially provides that families coming before the court with more than one case will have all of their cases heard before the same judge. There are numerous variations on this model, but communities that have implemented it in some form have reported that this is an efficient and effective method for coordinating agency and court efforts on behalf of multi-system children and families.

Sidebar

The Legal Analysis Subcommittee of the New Mexico Blending Systems Initiative chose to focus on the area of court processes. Much of the work of the committee centered on supporting the efforts of a pilot program to implement a one family/one judge model. In addition, the group took on the task of drafting agency policy that required a social worker or other supportive adults to attend delinquency hearings in order to ensure cross-system coordination throughout the court process.

Instituting Interagency Trainings:

- Several communities have committed to providing formal training for agency staff addressing confidentiality laws.
- Several communities have developed formal training for all agencies in the purposes and activities of the other agencies.

Promoting statutory change:

- Several communities have discovered that their state codes do not offer specific support for multiple agency communication and information sharing. Therefore, a committee may choose to suggest revisions to code provisions that can be proposed in upcoming legislative sessions.
- Another area in which code revisions may be suggested is in standardizing penalties for breach of confidentiality regulations.

The action strategies developed by the group, along with recommendations designed by any other committee will comprise the bulk of the final product for the initiative, most likely a strategic plan. Therefore, it would be useful for the group to consider the timeframes within which the recommendations can likely be instituted and whether they require the commitment of funds. Although implementation of the action strategies will be led by the executive leadership within the initiative, any proposed guidance on timeframes and funding by the committee itself can be of great use.

At this point, the work of the committee is finished. What remains is a set of strategies for improvement of both systems based on a thorough analysis of the community's unique strengths and challenges. The Legal and Policy Analysis Committee has undertaken the bold task of confronting long-standing issues of interpretation and come to a consensus that will move the systems forward and will best serve their common clients. This is no small task and will hopefully bring great satisfaction to those who have participated.

Many communities choose not to confront challenging legal issues or to consult with legal professionals because of the fear that this action will do more harm than good. Many communities have experienced other initiatives in which initial progress has quickly halted once legal issues were put on the table. The process outlined by this guide seeks to prove that confronting legal issues and consulting legal professionals can be a useful and productive step that helps to resolve issues rather than create them.

The Legal and Policy Analysis Committee's continued consultation regarding the legality of action strategies developed by other committees will be a valuable resource throughout the duration of the initiative. It can be extremely beneficial to engage a local legal authority, such as the attorney generals' office, in providing legal consultation to the participating entities and in continuing the legal analysis necessary for implementation of the initiative's action strategies.

In the end, the work of the Legal Analysis Subcommittee will be a valuable resource and tool when considering reform. Engaging the legal community as a partner can result in greater understanding of important issues, understanding that allows for new possibilities in assisting multi-system children and families

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Resources Summary

Secondary Sources

- *Balancing Information Sharing and Confidentiality: Providing Services for Children in the Juvenile Justice System*, Virginia Commonwealth University, Commonwealth Institute for Child and Family Studies.
 - This report presents both focus group findings as well as a legal liability assessment, concluding with a list of both short-term and long-term recommendations for information sharing.
- *Bridging the Child Welfare and Juvenile Justice Systems*, Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, June, 1995.
 - Highlights four examples of programs that present opportunities for coordination between the child welfare and juvenile justice systems.
- *Colorado Juvenile Information Exchange Laws: A Model for Implementation*, Office of the Attorney General, State of Colorado.
 - Based on funding by the Colorado Juvenile Justice and Delinquency Prevention Council in the form of a grant provided by the federal Office of Juvenile Justice and Delinquency Prevention, this publication was developed in order to respond to the change in legislation in Colorado which presented schools and other agencies working with juveniles the means to ensure that all necessary information is available to the appropriate people under the appropriate circumstances.
- *Consent to Treatment and Confidentiality Provisions Affecting Minors in Pennsylvania*, Juvenile Law Center, 2002.
 - This manual provides guidance to health care providers who directly treat minors as well as child-serving professionals who assist youth in obtaining

health care. This publication offers an in-depth review of federal laws related to consent for treatment and confidentiality.

- *Establishing and Maintaining Interagency Information Sharing*, Julie Slayton, March, 2000 (Juvenile Accountability Incentive Block Grants Program).
 - This publication offers a Model Interagency Agreement and discusses legal issues of confidentiality and information sharing, pointing out that in most cases there are not legal barriers to sharing information.
- *Glass Walls: Confidentiality Provisions and Interagency Collaborations*, Mark I. Soler, Alice C. Shotton, James R. Bell, National Center for Youth Law, 1993.
 - This project involved an assessment of confidentiality restrictions to determine whether they constitute real barriers to interagency collaboration efforts. The research focused on federal statutes and regulations, as well as those of several states. The report concludes that confidentiality restrictions are not significant barriers to interagency collaborations.
- *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration: Framework for Improved Outcomes*, Janet Wiig with John A. Tuell, Child Welfare League of America, 2008.
 - This Guidebook will help state and local jurisdictions achieve greater system coordination and integration. It is built from years of CWLA collaborations, co-sponsorship of state and local symposia, technical assistance, consultation experiences, examination and use of the most credible research, and program and practice evidence.
- *Hennepin County Juvenile Assessment Center Planning Project*, Institute on Criminal Justice, University of Minnesota Law School, December, 1999.
 - This report contains the findings of the Juvenile Assessment Center (JAC) Planning Project, including the results of a literature review, data collection on the local level, descriptions of JAC models, and an analysis of data privacy issues. The report includes an analysis of federal law regarding the disclosure of information on juveniles as well as an appendix containing a detailed description of federal and state confidentiality laws.
- *Improving Communication and Coordination Between the Child Welfare and Juvenile Justice Systems*, Carolyn P. Weiss, November, 1999.
 - This publication highlights successful coordination efforts and offers tips for creating a coordinated system as well as recommendations for handling “dual issue” cases in a non-coordinated system. This publication includes a brief list

of confidentiality laws permitting child welfare and juvenile justice systems to share information and collaborate.

- *In Brief: Information Sharing and Confidentiality*, Bridgett E. Jones, March, 2002.
 - This publication is a legal primer to help the community, the bench, and the bar implement change in the juvenile justice system. It focuses on addressing legal barriers to delivering integrated services to substance-abusing youth in the juvenile justice system. It also includes several helpful appendices with sample consent forms, interagency agreements, and a summary of state confidentiality laws.
- *Integrated Information Sharing in Juvenile Justice Systems: Issues, Challenges, and Pitfalls*, Denise L. Baer and Vincent Picciano.
 - This paper considers challenges to developing information sharing programs with an emphasis on the use of technological solutions.
- *Juvenile Records Information Sharing Manual*, Institute of Law, Psychiatry and Public Policy, University of Virginia – Charlottesville, VA, 2003.
 - The manual explains the legal framework for information sharing in the State of Virginia. The bulk of the manual consists of a detailed outline of the laws affecting specific kinds of records, addressing what each record is and when it can be disclosed. The manual illustrates the information sharing requirements by including vignettes that present real-life situations in which a professional must determine whether certain records can be shared. The manual concludes with a case scenario intended to provide an illustration of common information sharing issues.
- *Juvenile Integrated Information Sharing Focus Group Summary Report*, Office of Juvenile Justice and Delinquency Prevention, March, 2002.
 - This report highlights the findings from a focus group that was convened in Denver to discuss the practical experiences and processes of jurisdictions in various stages of juvenile integrated information sharing (JIIS) development.
- *Providing Comprehensive, Integrated Social Services to Vulnerable Children and Families: Are there Legal Barriers at the Federal Level to moving Forward?*, Center for Law and Social Policy, February, 2004.
 - This paper analyzes the challenges associated with developing integrated social services including legal issues, information system challenges, funding challenges, eligibility requirements, and the use of waiver authority. The paper

includes a helpful summary of federal program descriptions, a table of how federal funds can be used, and a sample consent form for the release and sharing of confidential information.

- *Sealing/Expungement/Destruction of Juvenile Court Records: What is the Court Process?*, Linda Szymanski, National Center for Juvenile Justice Snapshot, 4(11). November, 1999.

- This bulletin provides information on how various states handle the issue of sealing or destroying juvenile court records, an important consideration when considering increasing the amount of information being shared among systems serving juvenile delinquents.

- *Separate Tables: Interagency Information Sharing in Real Life*, Patrick Griffin, National Center for Juvenile Justice, NCJJ inFocus Spring 2000.

- True to its title, this article details the successes and challenges of a multidisciplinary group in Pittsburgh, Pennsylvania attempting to draft a proposed memorandum of understanding on local interagency information sharing.

- *When Systems Collide: Improving Court Practices and Programs in Dual Jurisdiction Cases*, Gene Siegel and Rachael Lord, National Center for Juvenile Justice, June 2004.

- This publication provides several examples of promising court-based or court-linked practices and programs addressing the needs of youth involved in both the child welfare and juvenile justice systems.

- *Who Should Know What? Confidentiality and Information Sharing In Service Integration*, Soler, M & Peters, C. 1993.

- This article discusses how agencies can share needed information, giving a general overview of many methods and issues that can arise.

- *Youth Involvement in the Child Welfare and Juvenile Justice Systems: A Case of Double Jeopardy?*, Leslee Morris and Madelyn Freundlich. CWLA Press. 2004.

- This study utilized qualitative research including individual and focus group interviews, research into programmatic approaches that meet the needs of youth involved in both the child welfare and juvenile justice systems, and legal research. The report presents recommendations for promoting the best outcomes for dually involved youth.

Useful Websites

- www.cwla.org
Website of the Child Welfare League of America. The Juvenile Justice Division page is home to extensive information regarding systems collaboration and coordination.
- <http://dept.fvtc.edu/ojjdp/states.htm>
This is an excellent resource that compiles the statutes in each state that address interagency information and record sharing. It is updated at least annually.
- <http://www.juvenileiis.org>
OJJDP's Juvenile Integrated Information Sharing site, which includes resources regarding information sharing to prevent juvenile delinquency.
- www.ncji.org
Website of the National Center for Juvenile Justice, a private, non-profit research organization.
- <http://www.ojjdp.ncjrs.org/>
Website of the Office of Juvenile Justice and Delinquency Prevention, a component of the Office of Justice Programs, US Dept. of Justice.

Federal Law Summary

The following federal statutes are divided into those that address collaboration and those that address confidentiality. The statutes addressing collaboration demonstrate the federal government's recognition of the need for collaboration as well as its support for efforts to create collaborative programs to serve children. The statutes addressing confidentiality reflect the federal government's recognition of the importance of an individual's privacy. The challenge of a systems integration effort is to reconcile these two objectives.

Child Abuse Prevention and Treatment Act (CAPTA)

Addressing collaboration

- 42 USC 5106(a)(5)

This section authorizes the Secretary to award grants to entities that provide linkages between State or local child protective service agencies and public health, mental health, and developmental disabilities agencies, for the purpose of establishing linkages that are designed to help assure that a greater number of substantiated victims of child maltreatment have their physical health, mental health, and developmental needs appropriately diagnosed and treated, in accordance with all applicable Federal and State privacy laws.

- 42 USC 5106a(a)

This section authorizes the Secretary to make grants to the states for purposes of assisting the states in various goals related to improving child protective services. One goal is stated as: "supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems." Another goal is stated as: "supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services (including linkages with education systems) and to address the health needs, including mental health needs, of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports."

Addressing confidentiality

- 42 USC 5106a(b)(2)(A)(viii)

A state plan is required to have methods to preserve the confidentiality of all records so as to protect the rights of children and their parents or guardians.

State plans may make data available only to—(I) individuals who are the subject of the report; (II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect; (III) child abuse citizen review panels; (IV) child fatality review panels; (V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and (VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose.

- 45 CFR 1340.20

All projects and programs supported under the Act must hold all information related to personal facts or circumstances about individuals involved in those projects or programs confidential and shall not disclose any of the information in other than summary, statistical, or other form which does not identify specific individuals, except in accordance with § 1340.14(i).

- 45 CFR 1340.14(i)

1) The State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense. (2) If a State chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines: (i) The agency (agencies) or organizations (including its designated multidisciplinary case consultation team) legally mandated by any Federal or State law to receive and investigate reports of known and suspected child abuse and neglect; (ii) A court, under terms identified in State statute;... (iv) A properly constituted authority (including its designated multidisciplinary case consultation team) investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of a report;... (vi) A person legally authorized to place a child in protective custody when the person has before him or her a child whom he or she reasonably suspects may be abused or neglected and the person requires the information in the report or record in order to determine whether to place the child in protective custody; (vii) An agency authorized by a properly constituted authority to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect;... (x) An appropriate State or local official responsible for administration of the child protective service or for oversight of the enabling or appropriating legislation, carrying out his or her official functions; and (xi) A person, agency, or organization engaged in a bonafide research or evaluation project, but

without information identifying individuals named in a report or record, unless having that information open for review is essential to the research or evaluation, the appropriate State official gives prior written approval, and the child, through his/her representative as cited in paragraph (i) of this section, gives permission to release the information.

Social Security Act – Child and Family Services

Addressing collaboration

- 42 USC 622(b)(2)

Each State plan for child welfare services under this subpart shall provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State program funded under part A , under the State plan approved under subpart 2 of this part, under the State plan approved under the State plan approved under part E, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families.

- 42 USC 625(a)

The services that can be supported by this grant include services aimed at: (A) protecting and promoting the welfare of all children...; (B) preventing or remedying...the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families...; and (F) assuring adequate care of children away from their homes.”

- 42 USC 629b(a)(3)

A state plan shall provide for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations in order to receive funding under this program.

Social Security Act – Foster Care and Adoption Assistance

Addressing collaboration

- 42 USC 671(a)(4)

Requires that the State assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this subchapter, under subchapter XX of this chapter, and under any other appropriate provision of Federal law.

Addressing confidentiality

- 42 USC 671(a)(8)

In order for a state to be eligible to receive payments under this part, the State plan must provide safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with the administration of the plan, any investigation, prosecution or criminal or civil proceeding conducted in connection with the plan, and the reporting and providing of information to appropriate authorities with respect to known or suspected child abuse or neglect.

Juvenile Justice and Delinquency Prevention Act

Addressing collaboration

- 42 USC 5633(a)(3)

State plans shall provide for an advisory group whose members include...(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, counsel for children and youth, and probation workers...(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services...(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

- 42 USC 5633(a)(8)

State plans shall provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State.

- 42 USC 5633(a)(9)

A State plan must provide that not less than 75 percent of the funds shall be used to meet specific goals including: (c) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare

services, health care agencies, and private nonprofit agencies offering youth services; (d) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law.

- 42 USC 5633(a)(26)

State plans shall provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court

- 42 USC 5633(a)(27)

State plans must establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders.

- 42 USC 5651(a)

Provides grants to eligible entities for projects designed to prevent juvenile delinquency including: (1) projects that provide treatment (including treatment for mental health problems) to juvenile offenders, and juveniles who are at risk of becoming juvenile offenders, who are victims of child abuse or neglect or who have experienced violence in their homes, at school, or in the community, and to their families, in order to reduce the likelihood that such juveniles will commit violations of law; (2) educational projects or supportive services for delinquent or other juveniles--which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies;...(10)comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies (including collaboration on appropriate prenatal care for pregnant juvenile offenders), private nonprofit agencies, and public recreation agencies offering services to juveniles; ... (13) to establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders

- 42 USC 5783(a)

Grants may be made to the states for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system.

Addressing confidentiality

- 42 USC 5633(a)(17)

State plans shall provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

- 42 USC 5676

Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this subchapter may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this subchapter. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.

Juvenile Accountability Block Grant

- 42 USC 3796ee(b)

Amounts paid under this part shall be used for strengthening the juvenile justice system, which includes: establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts; and establishing and maintaining programs to conduct risk and need assessments of juvenile offenders that facilitate the effective early intervention and the provision of comprehensive services, including mental health screening and treatment and substance abuse testing and treatment to such offenders.

Family Educational Rights and Privacy Act of 1974

Addressing confidentiality

- 20 USC 1232g(b)(1)

Information in an educational record may not be disclosed to a third party outside the school system without the prior consent of the student's parents, or without the student's consent if he or she is 18 years old or older, other than to the following: to school officials of another school where the student intends to enroll; in compliance with a judicial order or lawfully executed subpoena; in the case of an emergency, where the information is necessary to protect the health or safety of the student or other persons; and with juvenile justice personnel prior to adjudication pursuant to state statute (Under this exception, educators may disclose information from a student's record when ALL of the following conditions are met: State law

specifically authorizes the disclosure; the disclosure is to a State or local JJ system agency; the disclosure relates to the JJ system's ability to provide pre-adjudication services to a student; state or local officials certify in writing that the institution or individual receiving the information has agreed not to disclose it to a third party other than another JJ system agency).

- 34 CFR Part 99

This section includes definitions, scope of application, and other details regarding implementation of the statute.

Health Insurance Portability and Accountability Act (HIPAA)

Addressing confidentiality

- 45 CFR 160.203(b)

Provisions of state laws contrary to the Privacy Standards are preempted, unless the state law is more stringent than the Privacy Standard. See 45 CFR 160.202 for a definition of "more stringent."

- 45 CFR 164.502(a)

Covered entities, which include health care providers and health plans may not use or disclose protected health information, except as HIPAA permits or requires. Two relevant permitted uses are: 1) for treatment, payment, or health care operations; and 2) for public interest and benefit activities. Disclosures for most other purposes require a signed authorization from the subject of the records or the individual's personal representative.

- 45 CFR 164.502(b)

When use or disclosure is permitted, it must be done to the minimum extent necessary to fulfill the purpose, and additional limitations may apply.

- 45 CFR 164.502(g)(3)

If under applicable law a parent, guardian, or other person acting *in loco parentis* has authority to act on behalf of an individual who is an un-emancipated minor in making decisions related to health care, a covered entity must treat such person as a personal representative under this subchapter, with respect to protected health information relevant to such personal representation.

- 42 USC 1320d-5

Improper disclosure carries with it civil monetary penalties. However, HHS may not impose a civil monetary penalty when a violation is due to reasonable cause and did not involve willful neglect, and the covered entity corrected the violation within 30 days of when it knew or should have known of the violation

- 42 USC 1320d-6

There are also criminal penalties that are applicable when a person knowingly obtains or discloses individually identifiable health information in violation of HIPAA.

Public Health Service Act

Addressing Confidentiality

- 42 USC 290dd-2(a)

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

- 42 USC 290dd-2(b)(1)

The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

- 42 USC 290dd-2(b)(2)

Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed as follows: to medical personnel to the extent necessary to meet a bona fide medical emergency; to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.; if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefore, including the need to avert a substantial risk of death or serious bodily harm.

- 42 CFR, part 2

The regulations offer definitions, exceptions to confidentiality provisions, and further details.

Substance Abuse and Treatment Block Grant

- 42 USC 300x-28(c)

Requires States to “coordinate prevention and treatment activities with the provision of other appropriate services (including health, social, correctional and criminal justice, educational, vocational, rehabilitation, and employment services). In evaluating compliance with this section, the Secretary will consider such factors as the existence of memoranda of understanding between various service providers/agencies and evidence that the State has included prevention and treatment services coordination in its grants and contracts.

Mental Health Services Block Grant

- 42 USC 300x-1(b)(3)(a)

Specifically regarding children, the state plan must provide for a system of integrated social services, educational services, juvenile services, and substance abuse services that, together with health and mental health services, will be provided in order for such children to receive care appropriate for their multiple needs (such system to include services provided under the Individuals with Disabilities Education Act [[20](#) U.S.C. [1400](#) et seq.]

State Law Research Guide

Review Legal Mandates

Determine the roles and responsibilities of each involved agency or entity as detailed by the State legislature. This information will be found in statutes, court rules, and agency policy. The review should include the following:

- Under what circumstances an agency/entity has custody of, supervision of, and/or the responsibility to care for a juvenile
- Under what circumstances an agency/entity is obligated to provide services to a juvenile and/or his family;
- When obligated to provide services, what services must be provided, at what point, and for how long
- Whether the goals or purposes of a system or a program are set out by statute
- Whether the convening of councils, committees, advisory groups, etc. is required by statute
- What reports the legislature requires be submitted by each agency/entity, containing what information, at what intervals

The review should also identify where systems have goals or responsibilities in common that can serve as a foundation for integration and coordination efforts.

Review Current Policies and Protocols for Interagency Coordination

Determine what procedures are currently in place for interagency collaboration as well as the effectiveness of such procedures.

- At what decision-making points are interagency procedures in place?
- Are agency roles and responsibilities clearly defined in such procedures?
- Do such procedures take into account funding and confidentiality concerns?
- What strengths are present in successful procedures and what barriers exist with ineffective procedures?

Review Funding Structures

Determine whether state law identifies funding sources for specific agency functions or programs.

- What funds are available to support the goals of the integration effort?
- Are funding sources specific to one agency or program?
- Is there language allowing for pooling or braiding of resources?

Review Confidentiality Provisions

Identify the statutes detailing state confidentiality requirements. Pay special attention to what protections exist for assessments performed by each agency/entity. Assessments are often duplicated and therefore present an opportunity for developing interagency information sharing procedures that increase efficiency and conserve scarce resources, benefiting both the agencies and the juveniles. Be sure to consider the following types of information:

- Juvenile court records (dependency and delinquency)
- Child welfare records (open and closed cases)
- Probation records
- Parole records
- Detention records
- Mental health treatment records (parent and minor)
- Medical records
- Substance abuse treatment records (parent and minor)
- Education records
- Law enforcement records
- Corrections records

In addition, review the statutes and rules addressing the sealing and expungement of juvenile records.

Sample Survey Questions

Introduction

This survey is being conducted as part of the XXX Project, an effort to improve outcomes for children in the child welfare and juvenile justice systems. Your responses will be very helpful to the Legal and Policy Analysis Subcommittee, which is undertaking an examination of laws, regulations, and policies which may impact efforts to create a more coordinated, collaborative system. We have compiled what we view as some key questions that we would like to explore with you. If there are other issues regarding system collaboration that you would like to address beyond our questions, you will be provided with the opportunity to do so.

Please know that your responses are anonymous and will not be linked to your identity. The overall findings of this survey will be presented in a general way, but occasionally we may use quotes to emphasize our main points. If you think that the details provided in anything you say might reveal your identity, please indicate if you would prefer not to be quoted.

Information about Your Organization/Agency

What organization/agency do you work for?

What is your job title?

What are your job duties?

Views on Interagency Collaboration and Coordination

What level of information/training do you receive regarding other child-serving agencies/entities and their mandates, policies, and procedures?

Are there any written protocols related to communication and coordination between agencies/entities with common clients?

Can you identify laws or policies that you believe support interagency collaboration/coordination?

Can you identify laws or policies that you believe hinder interagency collaboration/coordination?

Are there specific ways that you imagine the agencies could work together to improve outcomes for those children having contact with both agencies?

Information-Sharing Questions

What organizations/agencies do you seek information from regarding juveniles on your caseload (i.e. Children's Services, Probation, Detention, Parole, The Court, Attorneys, Schools, Mental Health Treatment Providers, Substance Abuse Treatment Providers, Hospitals)?

How do you request information from those agencies?

What information do you need regarding children on your caseload that you are currently not receiving?

What barriers do you face in obtaining this necessary information?

What information are you asked for by other agencies or entities involved with the juvenile and his or her family?

When you don't share information, what keeps you from doing so?

What laws or rules do you rely on to determine whether and how to share info with other organizations or agencies?

Who do you ask when you have questions about information sharing?

Other Questions

In addition to confidentiality and information sharing concerns, can you identify any other legal or policy issues that impact your ability to serve juveniles on your caseload?

How do court processes and procedures impact your ability to serve juveniles on your caseload?

Do you have anything else that you would like to add?

Sample Interagency Agreement on Information Sharing

The agreement below is a product of the work of the King County Systems Integration Initiative, and is reprinted with their permission.

Working Agreement for Multi-System Collaboration

I. This Agreement is to support the exchange of information between parties of the agreement in order to give the most coordinated services possible to those children and families involved in the juvenile justice and child welfare systems, and is made and entered into as of the date set forth below, by and between the following agencies:

- ***King County Superior Court***
- ***King County Juvenile Court Services***
- ***Department of Social and Health Services, Division of Children and Family Services, Region 4***
- ***Office of the Superintendent of Public Instruction***

II. Definition

"Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of family and children's ombudsman, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415 (*RCW 13.50.010(1)(a)*)

There are no additional definitions of the terms used above contained in RCW Chapter 13.50 or RCW Chapter 13.04. Since there is no further statutory definition, it would be a matter of statutory construction as to how these terms are defined. That means that the words would have their ordinary, common meaning.

III. Recitals

Whereas; all parties are committed to improving cooperation and integration at the administrative and service delivery levels for the benefit of children and families within the purview of the child welfare and juvenile justices systems; and

Whereas; all parties agree that such improvements can be supported through the sharing of relevant and necessary information; and

Whereas; all parties agree that the exchange of information between “juvenile justice and care agencies” is allowable and encouraged within the parameters defined by RCW 13.50; and

Whereas; all parties mutually agree that this agreement shall be interpreted in light of, and consistent with governing State and Federal laws;

IV. The above named agencies agree to work together to:

1. Promote a mutual understanding of the allowances and limitations outlined in RCW 13.50 and other applicable State and Federal laws;
2. Delineate how the agencies and the courts will work together to facilitate information sharing and to ensure that confidential information is disseminated only to the appropriate persons or agencies as provided by law or otherwise pursuant to a lawfully obtained consent form;
3. Train relevant staff in procedures for interagency collaboration and information sharing;
4. Comply with relevant state and federal law and other applicable local rules and ethical standards, which relate to records use, dissemination, and retention/destruction.
5. Comply with relevant state and federal law and other applicable local rules and ethical standards, which relate to the dissemination of information, whether in writing or oral.

V. It is mutually agreed and understood by and between the cooperators that:

1. This agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more parties to this agreement, nor does it supplant any existing agreement between such parties.
2. Nothing in this **Working Agreement** shall be construed as obligating agencies to expend funds or to provide resources or be involved in any obligation for future payment of money or provision of resources.
3. Amendment within the scope of this **Working Agreement** shall be made by formal consent of all parties by the issuance of a written amendment, signed and dated by the parties, prior to any changes.

VI. Effective Date

In Witness Whereof, the parties hereto have entered into this **Working Agreement** as evidenced by their signatures below. The **Working Agreement** is effective upon the date of the final signature.

For King County Superior Court:

Signature

Date

For King County Juvenile Court Services

Signature

Date

For DSHS/DCFS, Region 4:

Signature

Date

For Office of the Superintendent of Public Instruction:

Signature

Date

CWLA will lead the nation in building public will to ensure safety, permanence, and well-being for children, youth, and families by advocating for the advancement of public policy, setting and promoting standards for best practice, and delivering superior membership services.



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