

NYS DCJS JMHCP Technical Assistance Bulletin

Intercept 3: Jail/Mental Health Information Sharing

(also for Intercepts 2,4 and 5)

Introduction:

Information sharing across systems that serve persons involved in the criminal justice system with mental illness and or co-occurring disorders may be used to divert appropriate persons from incarceration. Sharing information, while ensuring confidentiality, has the potential to enhance public safety, provide for the continuity of care both in and out of jail and improve public health outcomes, while at the same time lowering the locality's Medicaid and other healthcare costs.

Information Sharing and the Sequential Intercept Model:

Information sharing may happen in two ways at Sequential Intercepts 2, 3, 4 and 5.

- At the point of entry into the criminal justice system, potentially at arrest, although it is more likely to happen later at entry into the jail, the jail information system, cross checks with the local mental health oversight agency's information to see if the individual is known to the mental health system. If there is a match, the mental health agency is notified the client has entered the criminal justice system and the mental health system reaches out to the client either in the jail or in the community if the client is bailed or otherwise released.
- Adding to the information sharing from the jail to the mental health agency is the bi-directional sharing of information from the mental health system with the jail. The sharing of health information with the jail allows the jail to better provide for the health and mental health needs of the individual while in the jail and to prepare the offender for reentry into the community, addressing issues of medication and treatment both inside and out.

Privacy and Security:

Confidentiality and privacy are important requirements in health care. There a number of administrative, privacy and technical challenges exist for a jurisdiction to fully implement cross-system information sharing. There are also a number of benefits. Information sharing could help to reduce or eliminate staff time to perform certain tasks. Some tasks could be automated, providing for increased access to critical information in a timely manner and an increase in accuracy of the information being shared. These things will also enable continuity of care. Information leads to better healthcare for persons with mental illness which in turn leads to a reduction in recidivism and better outcomes for the individual and the community.

HIPPA Privacy Rule and 42 CFR, Part 2:

The HIPAA Privacy Rule (42 U.S.C. 290dd-2, 42 C.F.R. Part 2) does permit the disclosure of health information in many circumstances without requiring the individual's consent to the disclosure. Included is the sharing of information necessary to treatment, payment or health care operations. Health care operations is defined broadly and includes quality improvement, case management and care coordination. The privacy rule only applies to "covered entities". These include health plans, health care clearinghouses and health care providers. HIPAA covered entities do not include the courts, court personnel, accrediting agencies and law enforcement officials such as the police and probation officers. HIPAA also permits the disclosure of information for public health activities, judicial and administrative proceedings, and for law enforcement when it is necessary to avert a serious threat to health and safety. HIPAA incorporates the principle that in general, disclosure should be limited to the "minimal necessary" to accomplish the purpose for which disclosure is permitted. 42 CFR Part 2, on the confidentiality of alcohol and substance use information, has a similar provision permitting the sharing of information with "qualified services". It is important that the sharing of information be done with the required legal and technical safeguards to protect the privacy and confidentiality of the person in place.

HIPAA Security Standards were adopted in 2003. While protected health information may be shared in many circumstances, if done electronically, steps must be taken to secure the information. The Security Rule is located at 45 CFR Part 160 and Subparts A and C of Part 164.

The New York State Westchester County Experience:

Westchester County completed a sequential intercept mapping exercise several years ago. The county has also received technical assistance from the Bazelon Center for Mental Health Law and the Performance Improvement Project. Westchester used a Root Cause Analysis to enhance local systems of service and to collect ground level data to assist with policy and decision making. This process identified a number of systems issues including the frequent disruptions of treatment, medication and benefits for people leaving jail. County Mental Health and Criminal Justice planners believed the community and the individuals themselves would benefit from discharge planning and care coordination. After learning about a computer process that could "bounce" arrest data base information off the mental health data base and identify for the mental health system, persons arrested and booked into the county jail, Westchester implemented a one directional system to share information from jail booking with the Department of Community Mental Health.

More information about the Westchester County Performance Improvement Project may be found at Westchestergov.com.

Resources:

The Bureau of Justice Assistance funded a project that resulted in a document written and available from the Criminal Justice and Health Collaboration Project Working Group, IJIS Institute, and Urban Institute (2013). *Opportunities for Information Sharing to Enhance Health and Public Safety Outcomes: A Report by the Criminal Justice and Health Collaboration Project* may be retrieved from: http://www.ijis.org/publication/proj_reports.html or <http://www.urban.org/publications/412788.html>

The Security Rule is located at 45 CFR Part 160 and Subparts A and C or Part 164.

HIPAA Federal Confidentiality Laws and Regulations: 42 U.S.C. 290dd-2, 42 C.F.R. Part 2.

HIPAA Administrative Simplification Regulations found at 45 CFR 160,162 and 164.