



Juvenile Justice 21

Information Sharing and Juvenile Justice in Minnesota



Arielle Edelman McHenry, MPH and Robin Phinney, PhD

Project Overview

Juvenile Justice 21 (JJ21) is a multi-year project focused on building a unified vision for the future of juvenile justice in Minnesota. Funding for the project was provided by the Juvenile Justice Advisory Committee with a grant from the Juvenile Justice and Delinquency Prevention Act to the Minnesota Corrections Association. The JJ21 project is directed by Mark Haase.

Acknowledgements

We are indebted to the numerous individuals throughout Minnesota who spoke with us about the benefits, obstacles, and risks associated with information sharing on behalf of justice-involved youth. We would also like to acknowledge members of our advisory group, Willie Bridges, Hon. Jamie Cork, Beth Lee, Freddie Davis-English, Trisha Hansen, Rev. Paula Haywood, Shelley McBride, Mike McGrath, and Jerod Rauk, for providing feedback on the report, enhancing our understanding of information sharing through rich discussion, and helping us identify next steps for the work.

Table of Contents

Executive Summary.....	4
Chapter 1. Introduction.....	7
Definitions Used in the Report	9
Chapter 2. National and State Trends in Juvenile Justice	10
Trends in Juvenile Justice Nationwide	11
Working Towards Collaboration in Minnesota	14
Chapter 3. Formal Factors Affecting Information Sharing about Youth in the Juvenile Justice System.....	17
Information Sharing by Juvenile Justice Professionals.....	19
Information Sharing between Juvenile Justice Professionals & Education Professionals.....	20
Information Sharing between Juvenile Justice Professionals & Welfare System Professionals	21
Information Sharing between Juvenile Justice Professionals & Health Professionals	21
Information Sharing between Juvenile Justice Professionals & Chemical Health Professionals	22
Chapter 4. Informal Factors Affecting Information Sharing about System-Involved Youth	23
Lack of Knowledge	24
Risk Aversion.....	24
Organizational Structures that Create Departmental and Program Silos	25
Organizational Dynamics involving Funding and Turnover.....	26
Inability to Secure Parental Consent to Share Information	27
Skepticism Around Benefits for Youth of Color.....	27
Chapter 5. Risks of Information Sharing	29
Self-Incrimination	29
Implicit Bias and Lack of Knowledge among Program Staff.....	30
The “Net-Widening Effect” of Information Sharing Programs.....	31
Collateral consequences.....	32
Out-of-home Placements.....	32
Chapter 6. Mitigating Risks.....	34
Limiting the Information that is Shared	34

Ensuring that Consent is Informed	35
Protections Against Self-Incrimination.....	36
Monitoring and Evaluating the Outcomes of Systems-Involved Youth by Race	36
“Putting Families in the Driver’s Seat”	37
Reducing Implicit Bias and Lack of Knowledge through Training and Practice	38
Engaging Community	39
Chapter 7. Successful Collaboration and Information Sharing	41
Buy-in from Key Stakeholders.....	41
Tailored to Local Context	42
Personal Relationships.....	43
Partner Engagement.....	43
Specialization.....	44
Leadership with Varied Experiences Working with Youth.....	44
Legal Mechanisms	44
Chapter 8. Moving Forward in Juvenile Justice.....	45
References.....	48
Appendix A. Overview of Federal and State Data Practices Laws	52
Appendix B. Protecting Youth from Self-Incrimination in Minnesota	55
Appendix C. Examples of Legal Mechanisms for Information Sharing.....	57
Example 1: Standing Order for Hennepin County’s Crossover Youth Pilot Project.....	57
Example 2: Stearns County Data Sharing Agreement	61
Example 3: Memorandum of Understanding (MOU) between Rice County Agencies	62
Appendix D. Examples of Collaborative Programs in Minnesota	63
Appendix E. Sample Consent Forms	65
Example 1: Sample Consent to Release Information (in RFK Models for Change)	65
Example 2: Sample Consent Form for Protected Health Information (in RFK Models for Change)	67
Endnotes	69

Executive Summary

A fuller understanding of youth's developmental needs, the large number of crossover youth in the juvenile justice system, and the complex and varied needs of many system-involved youth have elevated the need for smoother collaboration across agencies serving youth in Minnesota's juvenile justice system. The juvenile justice system alone is ill-equipped to serve all youth adequately, necessitating greater coordination and collaboration with other systems including mental health, chemical health, child welfare, and education.

Information sharing is central to cross-system coordination and collaboration on behalf of justice-involved youth. In this context, information sharing refers to the collection and sharing of personally identifiable information in order to facilitate case management on behalf of individual children and their families. A key aspect of many such approaches is the need to understand and ease the barriers around case-level information sharing for juvenile justice practitioners, as well as across systems.

"An integrated approach to assessment, case planning, and service delivery is at the heart of effective cross-systems partnerships. The foundation of this strategy is data sharing."

(Seigle, Walsh, & Weber, 2014)

[Authors' note: Use of the term 'data sharing' here refers to what we call 'information sharing' in this report]

Information sharing can take multiple forms: multi-disciplinary teams that bring together stakeholders from across systems, youth, and families at key decision points; a unified information management system; or use of liaisons who can identify youths' potential cross-systems involvement. The collaborations can be formalized in memoranda of understanding, interagency policies and protocols, or blended funding streams that leverage funds from multiple agencies to support shared processes and services.

Information sharing can also transpire outside of collaborative, cross-agency programs. For example, a youth may choose to share, or not, certain information with their probation officer. The child's probation officer may need information from a mental health provider in a different department in order to complete a risk assessment. A public defender may reach out to the child's school to learn

more about their involvement on the basketball team. In these instances, information is requested on a one-off basis, without the support of a system-wide protocol that could streamline the work. Individual juvenile justice staff are then more reliant on the discretion of colleagues in other systems than if there were formal mechanisms in place.

Although information sharing has been a focus of state initiatives as far back as 2007, such efforts have been complicated by the lack of a centralized governance body for juvenile justice in Minnesota. As a result, many questions remain. When does Minnesota law allow information sharing across departments and agencies? What informal factors affect the willingness and ability of juvenile justice staff to share case-level information? What are the risks associated with disclosing information about a youth across agencies? What are examples of programs that permit information sharing in Minnesota, and what are the formal mechanisms for doing so?

The report "Information Sharing and Juvenile Justice in Minnesota" describes findings from the 2018 Juvenile Justice 21 (JJ21) project, a multi-year project focused on building a unified vision for the future of juvenile

justice in Minnesota. To provide greater clarity regarding information sharing on behalf of justice-involved youth in Minnesota, we conducted a literature review of academic and policy research, thirty interviews with juvenile justice stakeholders and data practice experts across Minnesota, and an in-depth analysis of federal and state data practices laws. We also brought together a group of juvenile justice and data practice experts to guide the work and identify next steps. Below, we describe the central questions and key findings from the report.

What formal factors affect information sharing?

- The term “formal factors” refers to the laws that govern whether and how personal information that is collected by the government can be shared. The laws regarding information sharing are in federal laws and regulations, state statutes and administrative rules, and local policies and practices. Although some exceptions exist, information about youth who are involved in the justice system is considered private data that cannot be disclosed without consent.
- This section of the report outlines the laws and regulations that shape case-level information sharing and data sharing more broadly, in five areas: within juvenile justice, between juvenile justice and education systems, between juvenile justice and health entities, between juvenile justice and substance use disorder treatment entities, and between juvenile justice and welfare systems.
- Appendix A to the report summarizes the federal and state laws in a user-friendly guide for juvenile justice professionals.

What informal factors affect information sharing?

- Although federal and state laws restrict information sharing in several key areas, there are circumstances in which case-level information sharing is permitted. However, interviews with stakeholders indicate that there is a lack of knowledge about the type of information that can be shared, with whom, and when.
- The interviews also suggest a set of additional factors that affect information sharing on behalf of system-involved youth. These informal factors include risk aversion from frontline staff as well as leadership, organizational structures that create departmental and program siloes within units of local government, organizational dynamics involving funding and turnover, inability to obtain parental consent to information sharing, and skepticism among some stakeholders about the benefits of information sharing for youth of color.

What are the risks of information sharing?

- Barriers to case-level information sharing are generally viewed as problematic for effectively serving youth who are involved with multiple systems. Yet multiple interviews with probation officers, public defenders, and advocates across the state, as well as outside research, indicate that information sharing initiatives are not without controversy.
- There are reasons to suspect that information sharing initiatives can be harmful – even when information is shared appropriately and within the confines of the law. Risks associated with information sharing initiatives and collaborative programs include the risks of self-incrimination, implicit bias and lack of knowledge among staff, the “net-widening effect” of information sharing

programs, the collateral consequences of system involvement for youth in Minnesota, and the risks related to out-of-home placement for youth of color, and Native youth in particular.

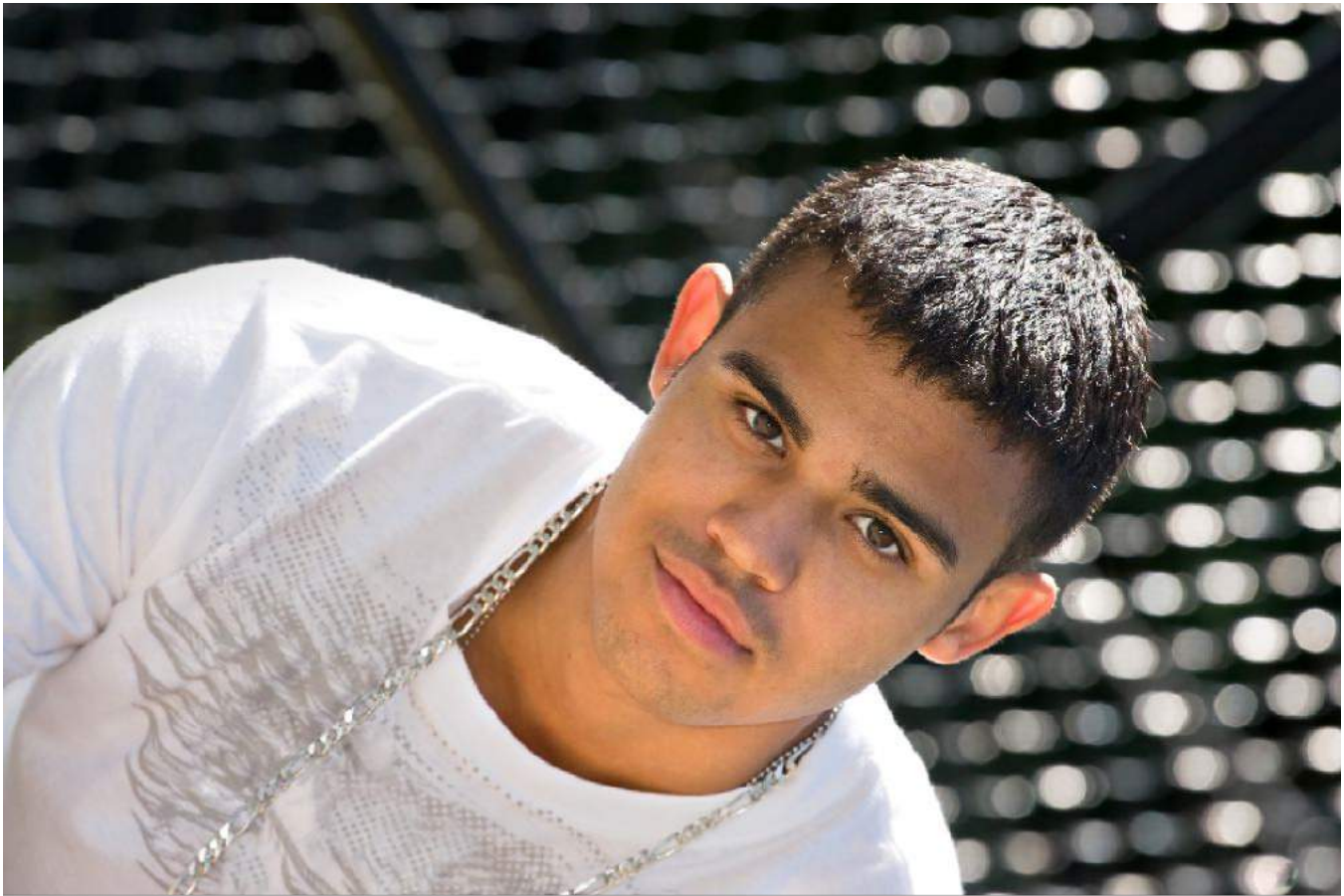
- The risks listed above are particularly acute for youth of color, who are disproportionately represented in the juvenile justice system.
- These risks may be mitigated by limiting the information that is shared; ensuring that consent is informed; protecting against self-incrimination; monitoring and evaluating outcomes by race; reducing implicit bias and lack of knowledge through training and practice; “putting families in the driver’s seat”; and engaging community.

What are examples of successful information sharing and collaboration?

- While information sharing poses risks, there are several examples of local entities in Minnesota utilizing formal mechanisms to share information in order to better coordinate services or collaborate on behalf of youth involved in multiple systems. These partnerships – many of which are longstanding – involve both formal programs (such as the Crossover Youth Program) as well as informal collaborative efforts.
- Mechanisms for information sharing in formal collaborative efforts include memoranda of understanding, joint powers arrangements, and standing court orders.
- Analysis of these programs reveals that such “successful collaborations” tend to feature buy-in from key stakeholders; tailoring to local context; personal relationships between departments and programs; partner engagement; specialization; leadership with varied perspectives; and legal mechanisms that define the partnership.

How can the juvenile justice field move forward?

- The report reveals the complexity of the topic of information sharing. On the one hand, information sharing between agencies can connect youth in multiple systems to appropriate services, thereby supporting youth’s rehabilitation. In this way, information sharing can be protective of youth and families who are justice system-involved. On the other hand, information sharing between agencies comes with risks, particularly for youth of color, who are over-represented in the system.
- As Minnesota continues a push to expand information sharing programs and collaboration within juvenile justice, it is important to consider variable and potentially differing perspectives in order to improve outcomes for youth while mitigating the risks of information sharing for youth of color in particular.
- The report concludes with potential next steps for juvenile justice agencies, youth and families, communities, and state and local governments.



Chapter 1. Introduction

This report describes findings from the 2018 Juvenile Justice 21 (JJ21) project. JJ21 is a multi-year project focused on building a unified vision for the future of juvenile justice in Minnesota. The project is funded by the Juvenile Justice Advisory Committee with a grant from the Federal Juvenile Justice and Delinquency Prevention Act to the Minnesota Corrections Association.

The 2018 phase of JJ21 focused on describing the barriers to information sharing in Minnesota and identifying potential paths forward. The work was motivated by the consensus among many juvenile justice professionals, drawn from previous phases of JJ21, that greater information sharing and collaboration is necessary if the system is to effectively serve youth involved in multiple systems (such as juvenile justice and child welfare). In this context, information sharing refers to the collection and sharing of personally identifiable information in order to facilitate case management on behalf of individual children and their families.

Information sharing refers to the collection and sharing of personally identifiable information in order to facilitate case management on behalf of individual children and their families.

The central goal of the work was to identify the formal and informal barriers to case-level information sharing by juvenile justice professionals in Minnesota. This goal was subsequently

divided into three parts: (1) identify the legal parameters governing information sharing within and across programs and agencies; (2) identify informal practices that either enable or constrain information sharing within the juvenile justice system, or between juvenile justice professionals and practitioners within other systems; and (3) provide example of programs and localities that have circumvented information sharing obstacles to enact programs or practices that enable information sharing that is in the best interest of youth.

Early in the project, multiple informants flagged the risks of information sharing to youth of color in particular. It became clear that a key premise of the project – that information sharing works to the benefit of youth involved in the juvenile justice system – was not universally shared. Thus, an additional goal of the research emerged: to investigate the potential risks of information sharing for youth.

Our methodology for investigating the context surrounding case-level information sharing included:

- A review of existing literature, including academic research as well as studies and reports from research organizations, federal agencies, and other states and localities.
- Thirty interviews with juvenile justice professionals, including probation officers, county attorneys, public defenders, prosecutors, judges, youth advocates, and other practitioners involved in the juvenile justice system, as well as experts on Minnesota data practices.
- An analysis of federal laws and Minnesota statutes to identify the legal constraints on information sharing.

We also convened a group of juvenile justice and data privacy experts in Minnesota to comment on early findings of this report and recommend potential next steps based on project findings. We intentionally convened a group with a mix of perspectives on information sharing, roles in the juvenile justice system, corrections delivery systems, and demographics.

This approach was designed to clarify the federal and state laws surrounding information sharing while also grounding the project in the experiences of juvenile justice professionals across the state, as laws in practice often operate differently than they would appear to in statute. In addition, in a county-administered state such as Minnesota, juvenile justice professionals experience the barriers to information sharing differently in different localities. Innovation in information and data sharing also likely exists in varying forms across the state.

Our review of existing research, stakeholder interviews, and legal analysis reveals the following findings:

- In Minnesota, juvenile justice practices and procedures around information sharing are hyper-local in nature; different counties have different ways of working and local practices are affected by size, demographics, and corrections delivery system, among other factors.
- Federal and state laws restrict information sharing in several key areas, including education and health. While the laws do enable information sharing in certain circumstances and with certain mechanisms, these rules are not widely understood (Chapter 3).
- Many of the barriers to information sharing that front-line staff encounter are informal (as opposed to legal). These barriers include lack of knowledge of data practices laws, risk aversion on the part of front-line staff and county leadership, and programmatic and departmental silos that impede information sharing and collaboration (Chapter 4).

- There is no consensus regarding the benefits of information sharing, and there are strong reasons to suspect that information sharing initiatives may pose a particular risk for youth of color via self-incrimination, implicit bias and lack of knowledge among staff, the “net-widening effect,” collateral consequences, and the risks related to out-of-home placement.
- These risks may be mitigated by limiting information sharing, making sure that consent is informed, tracking outcomes by race, and centering practice on families and youth (Chapters 5 and 6).
- Several counties are seeking to innovate with different mechanisms and programs to overcome barriers to information sharing, using memoranda of understanding, standing court orders, and joint powers arrangements. Stakeholders also indicated interest in programs that would allow youth to be extricated from the justice system through dismissal or diversion by gathering contextual information from other agencies earlier in the process (Chapter 7).

In full, the report reveals the complexity of the topic of information sharing. In some instances, information sharing can support a youth’s rehabilitation by streamlining program delivery and connecting youth with needed services. At the same time, information sharing between agencies comes with risks, particularly to youth of color. As Minnesota continues a push to expand information sharing programs and collaboration within juvenile justice, it is important to consider differing perspectives in order to improve outcomes for youth while mitigating the risks of information sharing for youth of color in particular, who are disproportionately vulnerable to initial system-involvement and entrenchment.

Definitions Used in the Report

Collaboration: When different agencies within the same government entity coordinate their work to more effectively serve youth.

Crossover youth: Youth who are currently, or are at risk of, being served by both the juvenile justice system and social services, including but not limited to mental health and child welfare.

Crossover Youth Program Model (CYPM): Minnesota’s Juvenile Justice Advisory Committee uses a broad definition for the Crossover Youth Program Model that includes the following characteristics: participation from a variety of key stakeholders, including but not limited to juvenile justice, child welfare, education, and mental health; a communications strategy that ensures information is easily shared between system stakeholders, youth, and family; identification of crossover youth as early in the process as possible; a joint assessment and case planning approach; the recognition that family or caregiver involvement increases the likelihood of program success; and staff supporting the family and youth are “on the same page” (Minnesota Juvenile Justice Advisory Committee, 2017).

Data sharing: Data, as opposed to information, refers to personally identifiable information about children from multiple agencies that may be linked, stripped of identifiers, and then combined for analysis in order to improve policies and practices and better coordinate response involving multiple agencies (Juvenile Law Center and RFK National Resource Center for Juvenile Justice, 2015).

Information sharing: The collection and sharing of personally identifiable information in order to facilitate case management on behalf of an individual child and the child’s family (Juvenile Law Center and RFK National Resource Center for Juvenile Justice, 2015). Information may be shared within and across different departments, and within or apart from collaborative programs such as the Crossover Youth Program.

Juvenile: A person younger than 18 years old. “Youth,” “young person,” and “child” are used synonymously throughout this report.



Chapter 2. National and State Trends in Juvenile Justice

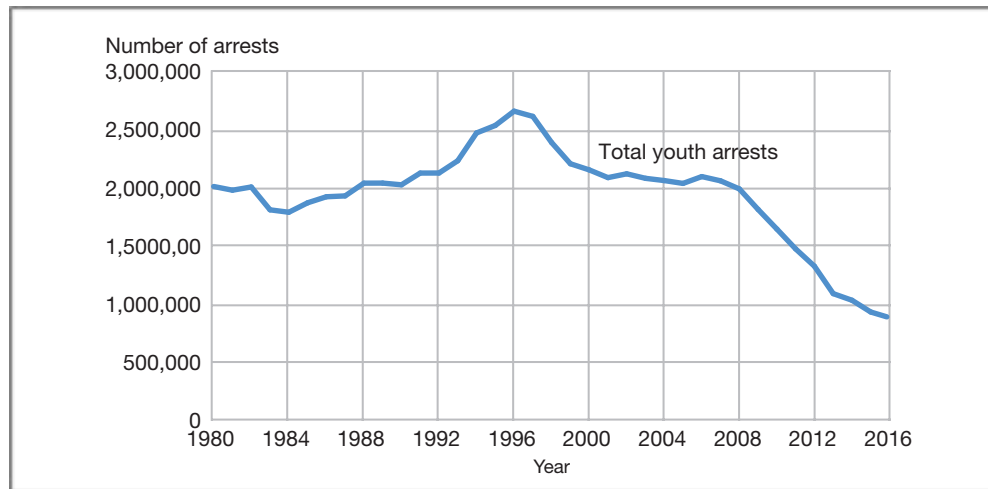
In the last twenty years, the approach of state and local juvenile justice systems across the country has shifted from punitive to rehabilitative. While the 1980s and 1990s saw the implementation of many “get-tough” policies such as confinement for minor offenses, mandatory sentences, and the transfer of juvenile offenders to adult court, more recent years have witnessed the emergence of programs that consider alternatives to youth detention, provide access to treatment, and aim to treat youth in developmentally-appropriate ways.

This shift is due in part to a large body of evidence around adolescent development. Behavioral studies show that psychosocial factors associated with adolescence – peer influence, poor impulse control, sensation-seeking, a focus on immediate over future consequences – can influence decision-making and contribute to delinquent activity (Scott & Steinberg, 2010 (reprint)). While public safety and reduction of crime remain important objectives, policymakers increasingly understand that incarceration is not an effective means for accomplishing these goals with many youth (Task Force on Transforming Juvenile Justice, 2009).

At the same time, the high cost of punitive interventions like secure detention has led policymakers to reconsider them. A robust body of research has shown that using secure facilities as a primary response to youth delinquent behavior results in poor outcomes and at high cost (Seigle, Walsh, & Weber, 2014).

Shifts in juvenile justice policy over the past two decades have been accompanied by declining rates of involvement in the juvenile justice system. Figure 1 shows that the number of youth arrests nationally has decreased steadily since the mid-1990s (Puzzanchera, 2018; see also Snyder & Sickmund, 2006). In addition, youth confinement and arrest for violent crimes both declined by 50% between 1997 and 2011 (Seigle, Walsh, & Weber, 2014).

Figure 1. National Trends in Youth Arrests



Source: Reprint from Puzzanchera, Charles. December 2018. "Juvenile Justice Statistics: National Report Series Bulletin." U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

As a result of these factors, the field has increasingly moved toward evidence-based programs that address the needs of adolescents. Goals for youth accountability are in line with society's interest in public safety, and both can be realized through interventions that support youth development (National Research Council, 2013).

Trends in Juvenile Justice Nationwide

Within the juvenile justice field, there is also now a robust body of work documenting the unique challenges of "crossover youth," a term that at its most broad applies to youth in (or at risk of entering) the juvenile justice system and who are also being served by health and human services (including, but not limited to, child protective services, mental health, or chemical health). The nature of crossover youths' complex and varied needs complicate capacity for any one system to serve them effectively (Wiig, Widom, & Tuell, 2003).

For instance, the prevalence of mental health disorders among juvenile offenders is approximately 40 - 60% higher than among a similar group of adolescents without juvenile offenses (Cauffman & Grisso, 2005), in part due to the failure of many states to provide adequate mental health services for youth. Many residential facilities and programs were eliminated in the 1990s, causing stymied parents to seek help from the juvenile justice system (Grisso, 2006). One report found that in 33 states, facilities reported holding youth with mental illness who did not have any charges against them (United States House of Representatives, Committee on Government Reform, 2004). A 2003 report documented the phenomena of families forced to relinquish custody of their children to the child welfare or juvenile justice systems so they could receive necessary mental health services. Parents' decisions were influenced by a few factors, including the lack of health insurance

coverage and a lack of community-based services (United States General Accounting Office, 2003).

The trends documented above – a fuller understanding of youth’s developmental needs, the large number of crossover youth in the system, and the complex and varied needs of many system-involved youth – have elevated the need for smoother collaboration across agencies serving youth in the system. The juvenile justice system alone is ill-equipped to serve all youth adequately, necessitating partnerships with mental health, chemical health, and child welfare agencies (to name just a few).

There are many advantages to a coordinated approach across service providers in different areas. A coordinated approach can result in less duplication of efforts and systems working at cross purposes; streamline court, agency, and provider decision-making and service delivery; reduce the tendency to push low-risk youth into the juvenile justice system only to access needed services that should be available through other systems; and increase utilization of available services and identification of gaps to increase cost efficiency across systems (Seigle, Walsh, & Weber, 2014).

That said, county-level agencies have traditionally worked in silos with disparate missions, and collaboration – even communication or simple coordination – can require intensive organizational change. This is no less true in Minnesota than in other states. Perhaps as a result, national organizations have begun to develop strategies for coordination and collaboration on behalf of youth with needs that span multiple systems. At the same time, states and localities increasingly have been innovating with programs like the Crossover Youth Program, which brings together professionals from different departments (often juvenile justice and social welfare) in a collaborative case planning and management process.

The central tenet of many such approaches is the need to understand and ease the barriers around case-level information sharing for juvenile justice practitioners. “An integrated approach to assessment, case planning, and service delivery is at the heart of effective cross-systems partnerships. The foundation of this strategy is data sharing” (Seigle, Walsh, & Weber, 2014). [Author’s note: here, use of the term data sharing refers to what we call in this report “information sharing.”]

Information sharing can take multiple forms in collaborative programs: multi-disciplinary team meetings that bring together stakeholders from across systems, youth, and families at key decision points; a unified information management system that automates sharing; or the use of liaisons who can identify youths’ potential cross-systems involvement. The collaborations can be formalized in memoranda of understanding, interagency policies and protocols, or blended funding streams that leverage funds from multiple agencies to support shared process and services (Seigle, Walsh, & Weber, 2014).

Information sharing can also transpire outside of collaborative programs. For example, a probation officer may need information from a mental health provider in order to complete a risk assessment. A public defender may approach the child’s school to learn more about their involvement on the basketball team. In these cases, information is requested on a one-off basis, without the support of a system-wide protocol that could

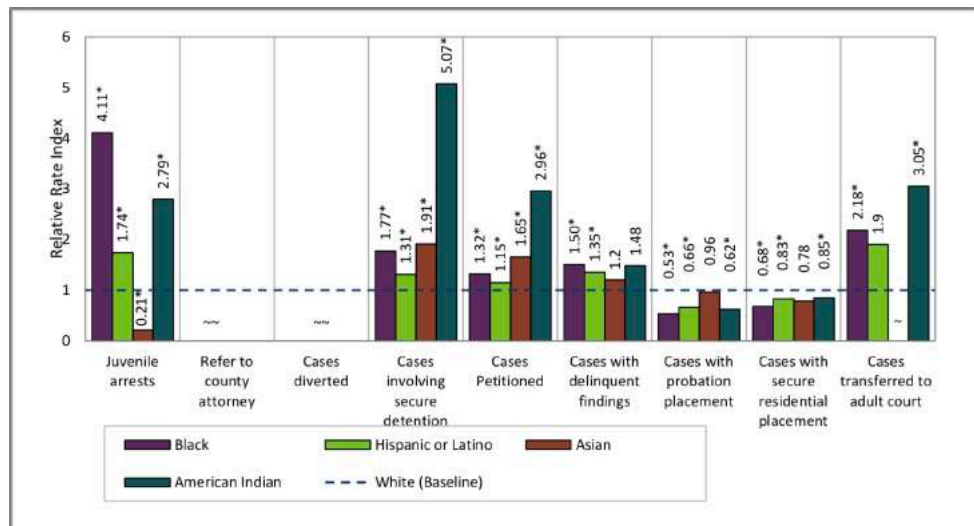
A fuller understanding of youth’s developmental needs, the large number of crossover youth in the system, and the complex and varied needs of many system-involved youth has elevated the need for smoother collaboration across agencies serving youth in the justice system.

streamline the work. Individual juvenile justice staff are then more reliant on the discretion of colleagues than if there were a formal mechanism in place.

There is not universal acknowledgement that these programs are of benefit to youth, however. The Juvenile Law Center and other advocates worry about a “net-widening effect” of universal screening for collaborative programs or different types of services, as more and more youth are labelled as having disorders, with juvenile justice professionals then feeling compelled to treat and resolve these issues before releasing the youth from the court’s jurisdiction (Rosado & Shah, 2007).

In addition, there are reasons to suspect that information sharing may be particularly harmful for youth of color, especially given severe racial disparities in the juvenile justice system nationally and in Minnesota in particular. In Minnesota, while the absolute number of youths in the juvenile justice system has declined over time, the overrepresentation of youth of color has steepened. For instance, Figure 2 shows the relative rate index (RRI) for youth at various stages of the juvenile justice system in Minnesota, using 2015 data. A relative rate index depicts the rate of contact with the justice system for different groups of youth (by race, in this example).

Figure 2. Relative Rate of Juvenile Activity in Minnesota, by Race



Source: Reprint, Figure 15 in Minnesota Management and Budget (MMB) (2018), *Juvenile Justice Benefit Cost Analysis: Results First*. Data from Department of Public Safety, Office of Justice Programs.

In this figure, calculations above 1.00 signal overrepresentation, while RRIs below 1.00 signify underrepresentation (Minnesota Department of Public Safety Office of Justice Programs, 2017). The figure shows that black youth, Hispanic youth, and American Indian youth are all more likely than white youth to be arrested, while Asian youth are less likely to be arrested. A multiplicity of factors contributes to this, including inequitable distribution of resources in communities, bias within policies and practices of juvenile justice agencies, and underlying community social conditions, such as poverty (U.S. Department of Justice, 2009).

Despite the risks, national trends around information sharing echo the swing from a punitive juvenile justice system to one that prioritizes rehabilitation and youths’ developmental needs. Thus, counties are moving from working in silos to sharing information about specific cases using mechanisms like memoranda of understanding (MoUs). This new way of working is not intuitive, however, so technical assistance providers like

RFK's Models for Change and Annie E. Casey now offer guides to bridging the gaps between different agencies, particularly for crossover youth and the specific challenges around information sharing.

Because Minnesota lacks a centralized governance body for juvenile justice, moving toward collaboration is particularly difficult. A report about Minnesota's juvenile diversion programs found that while statute specified the purpose of diversion and established minimum eligibility criteria, most aspects of programming and service delivery were left to the counties, leading to eighty-seven different programs that varied by which youth received diversion, which agency oversaw programming, the conditions necessary to complete diversion, and the services offered in conjunction with diversion (Swayze & Buskovich, 2012).

Academic literature has found similar trends: "Despite federal efforts to create a more unified response to delinquency, juvenile justice still depends on state law and the practices established in local jurisdictions. The intensity and diversity of interventions are determined by where the youth happens to reside: 'justice by geography'" (Feld, 1991). The variance among information sharing programs in the state is similar, as we describe in greater detail below.

Working Towards Collaboration in Minnesota

Cross-agency information integration and sharing for youth in the justice system have been a focus of state initiatives as far back as 2007, with the convening of the Minnesota Juvenile Justice and Mental Health Initiative task force. The goal of this task force was to improve outcomes for justice-involved youth with mental health or co-occurring disorders. In 2008, the task force published a summary of its findings, stating that: "[t]he need to collect data that better informs the process and to share data without jeopardizing the legal interests of youth as defendants" emerged as one of the initial priorities (Minnesota Juvenile Justice and Mental Health Initiative, 2008).

The task force recommended a review of federal and state data privacy and data-sharing statutes related to juvenile justice and mental health, an area that was poorly understood by focus group participants interviewed by the task force. Other recommendations related to data and collaboration included establishing interagency or multi-disciplinary teams to plan for youth with mental health issues; clarifying agency roles and establishing policies and MoUs for shared cases; and expanding the ability to share information between county agencies and schools, including through a centralized database. These recommendations, supported by Juvenile Justice Advisory Committee (JJAC) in its 2009 Annual Report, prefigure the growth of collaborative models like Crossover Youth in Minnesota and underscore how far back the conversation around problems with information sharing stretches (Minnesota Juvenile Justice Advisory Committee, 2010).

During this time, interest in information and population-level data sharing also began to expand. In 2010, the Department of Public Safety presented to the Legislature the Juvenile Justice System Decision Points Study, to determine the viability of collecting summary data about juveniles involved in the justice system in Minnesota, in order to work toward more equitable, rehabilitative outcomes for all youth (Minnesota Department of Public Safety, Office of Justice Programs, 2010).

From 2013 to 2014, the National Alliance on Mental Illness of Minnesota (NAMI Minnesota) convened a stakeholder work group to discuss mental health service delivery and outcomes for youth at risk of, or experiencing, juvenile justice system involvement, at the direction of the Minnesota Legislature. The purpose of the work group was to address the lack of interagency collaboration. Relevant here, the work group was

directed to discuss the changes needed to ensure that coordination between agencies would result in high quality service delivery, particularly regarding information sharing, service shortages, and cost pressures. Recommendations included the expansion of collaborative information sharing programs benefitting children under ten and the creation of a state office of juvenile justice to collect and analyze data for justice-involved youth to improve outcomes (National Alliance on Mental Illness of Minnesota, 2014).

In 2014, the Juvenile Justice 21 (JJ21) project launched with funding from JJAC, with the goal of identifying a unified vision for the future of juvenile justice in the state. The project convened eleven fora across the state with a variety of stakeholders in the juvenile justice system; those fora and complementary surveys and interviews surfaced questions and concerns about how information sharing policies impede collaboration, and the need for improved information sharing with child protective services, schools, and mental health programs. The final report from that stage of the project noted that, “there seemed to be a lack of information available on exactly what can and cannot be shared” (Haase & Parpia, 2014).

Since at least 2015, JJAC has highlighted “fragmentation” and “lack of coordination” among systems intersecting with juvenile justice as a barrier to improved outcomes for youth in the system. JJAC began promoting Georgetown’s Crossover Youth Program Model in that year as a formalized way to share information between county agencies. The program was already being implemented in five Minnesota counties, and JJAC’s 2015 Annual Report cites Olmsted County’s experience to support feasibility of the program’s implementation in other counties (Minnesota Juvenile Justice Advisory Committee, 2016). The Director of the JJ21 project also advocated for a statewide expansion of models like CYPM (Minnesota Juvenile Justice Advisory Committee, 2016).

In its 2016 Annual Report, JJAC renewed its emphasis on the Crossover model as an effective way to improve collaboration among agencies serving youth in the juvenile justice system. It noted that comprehensive cross-agency service delivery would not be fully achieved without a state-level mandate and advocated for increased funds to support counties seeking to implement multi-disciplinary team approaches such as the Crossover Youth Program. The annual report also appended descriptions of Crossover programs in Morrison, Olmsted, and Stearns Counties, and the program manual for Beltrami County’s Crossover/Dually Involved Youth Project (Minnesota Juvenile Justice Advisory Committee, 2017). The Final Report of the Governor’s Task Force on Mental Health recommended increased collaboration and information sharing (while protecting individual privacy) to build a truly comprehensive continuum of care for people with mental health issues, including justice system-involved people (Minnesota Department of Human Services, 2016).

In 2017, the Minnesota Correction Association’s legislative priorities include a revision to data practice law to “allow corrections and human services to work together” to better serve the unique needs of juveniles with co-occurring mental health or substance use morbidities (Minnesota Juvenile Justice Advisory Committee, 2017).

During this year, JJAC also granted most of its Federal Title II funds to six jurisdictions working to implement or expand Crossover Youth Programs and published the findings from JJ21’s Mental Health and Collaboration project, undertaken in response to issues surfaced during the 2014 fora and surveys. Two linked recommendations from that report led to this current iteration of the project:

- Collaboration: Provide information, resources, and training for more counties to develop “dual status youth,” or “crossover,” programs. JJAC noted in the annual report that community awareness and buy-in are “critical components” of JJAC’s Crossover expansion efforts, efforts which will also be

reinforced by the outcomes recorded by the current Crossover sites (Minnesota Juvenile Justice Advisory Committee, 2018)

- Data sharing: Create task force/working group on juvenile information sharing policies and procedures (Juvenile Justice 21, 2017). (Author's note: the JJ21 Data Advisory Group, composed of juvenile justice stakeholders from across the state, convened on April 23, 2019 and May 24, 2019 to review the findings from this report and identify next steps.

Both recommendations seek to address the need for better coordination between the multiple systems that intersect with the juvenile justice system, one of the most discussed issues with the broadest consensus among JJ21 participants in 2014. Participants agreed that collaboration is especially important for youth being served (or near to being served) by multiple county agencies. Barriers to collaboration raised by forum participants included funding streams, information sharing "difficulties," and the "politics" of the systems (Juvenile Justice 21, 2017). Thus, the current project, initiated in September 2018, was born from the need for improved collaboration between agencies and increased practitioner knowledge about information sharing specifics.



Chapter 3. Formal Factors Affecting Information Sharing about Youth in the Juvenile Justice System

This section provides an overview of the formal factors affecting case-level information sharing in Minnesota. The term “formal factors” refers to the laws that govern how personal information that is collected by the government can be shared by government actors. The laws regarding information sharing are in federal laws and regulations, state statutes and administrative rules, and local policies and practices. In this section, we focus on the federal laws and state statutes that shape case-level information sharing and data sharing more broadly, in five areas: within juvenile justice, between juvenile justice and education systems, between juvenile justice and welfare systems, between juvenile justice and health entities, and between juvenile justice and substance use disorder treatment entities. An overview of the laws for each area is available in Appendix A.

Although many of the laws governing information sharing are in state statute, there are several federal laws that protect personally identifiable information in several key areas, including health, substance use, and education. These federal laws represent a floor for data practices – meaning that states can enact stricter regulations but cannot enable data sharing that is expressly prohibited by federal law.

Federal substance use treatment laws and regulations, for example, limit the disclosure of information pertaining to a person’s diagnosis, referrals, or participation in substance use treatment without that person’s

consent. The goal is both to protect an individual's privacy and to encourage those with substance use disorder to seek treatment without fear of criminal prosecution and stigmatization. Because the federal law preempts state law, Minnesota may enact stricter laws governing the release of substance use treatment records but may not allow more information sharing than is permitted by federal law.

Minnesota state laws involving the sharing of information and data collected by the government generally fall under the heading of "data practices." Data practices law, located primarily in Chapter 13 of the Minnesota Statutes, governs the types of information and data that can be shared, by whom, and under what conditions. In general, Minnesota law presumes that information that is not explicitly protected by state law is public. This means that information about individuals is not subject to constraints on information sharing unless a law designates it as private.¹ Private data is available to the subject of the data but cannot be shared unless authorized by statute or with the consent of the individual to which the data pertains.

Much of the information that is collected from youth involved in the juvenile justice system is classified as private. As a result, the disclosure of information about a particular youth typically requires authorization and/or individual consent.

Much of the information that is collected from youth involved in the juvenile justice system is classified as private. As a result, the disclosure of information about a particular youth typically requires authorization in statute and/or individual consent.² Minnesota law does attempt to balance privacy, transparency, and government efficiency by authorizing the disclosure of some types of private data in defined circumstances – for instance, the sharing of educational data under a court order. In addition, state statute and rules permit a government employee to access private data if their work assignment reasonably requires access.³

If state law authorizes the disclosure of a particular type of information, then it is legally permissible to share this information.

If state law authorizes the disclosure of information that is otherwise categorized as private, then it is legally permissible to share this information. However, local units of government (including schools) may have stricter practices regarding when and how that information can be disclosed. For this reason, local practices may deviate from the rules described below.

In addition, anytime the government collects private or confidential information from a person, Minnesota statute requires that the government issue a notice, often referred to as a "Tennessen warning" or "privacy notice," to that person.⁴ Among other things, this notice describes the purpose and intended use of the requested information and aims to help people make informed decisions about providing their private information to the government. The Department of Administration advises that Tennessen warning notices be tailored to the programs and purposes for collecting data.⁵

There are also a series of state laws and county policies that govern juvenile justice timelines relevant to information sharing. Such timelines relate to court appearances, case planning meetings, or completion of assessments and are usually marked by days, not weeks. When youth are in custody and do not have a case open in probation, there are timelines that range from hours to days. These timelines can complicate information sharing because it may be difficult to secure written consent if a family member is difficult to locate or when a release must be signed in person and a family member faces a transportation barrier. While we do

not review such laws and policies in this report, these abbreviated timelines likely make it more difficult for juvenile justice professionals to share necessary information in ways that are consistent with Minnesota law.

Information Sharing by Juvenile Justice Professionals

The “juvenile justice system” is complex, as there are several systems involved with youth who may have committed a crime, including law enforcement, courts, and corrections. Each system collects a different type of information and the information technology systems that house this information are distinct. There are several different statutes that pertain to the records of youth involved in the juvenile justice system.⁶

Records that are created and maintained by law enforcement (“peace officer records of children”) are classified as private data that can be released in certain circumstances including with a court order. In jurisdictions with a juvenile diversion program,⁷ law enforcement is permitted to provide the diversion program with information concerning a youth who is being considered for participation in that program.⁸

Law enforcement is required to share information about defined violations with schools, including alcohol and drug violations and serious juvenile offenses. If there is probable cause that a student in grades K-12 committed an alcohol and/or drug violation, law enforcement must report that violation to a school’s chemical abuse preassessment team.⁹ Law enforcement must also notify a school (public or private) if there is probable cause that a student committed a serious crime, or probable cause that a student committed an adult crime, when the victim is a student or staff and the disclosure of this information is necessary to protect the victim.¹⁰

If a local social services agency requests information about a child who may be delinquent or may be engaged in criminal acts, law enforcement may share information in order to promote the best interests of the child.¹¹ Provided that the disclosure of records does not interfere with an ongoing investigation, such records are also accessible to the child and the child’s parent or guardian.¹²

Minnesota law requires juvenile courts to keep and maintain records pertaining to delinquent adjudications until a person reaches the age of 28. On request, the court is permitted to provide copies of these records to law enforcement agencies, probation officers, and corrections agents if the court finds that it is in the best interest of the child or serves public safety to do so. These data are generally available to the child as well as the child’s parent or guardian.¹³

Data that are created and maintained as part of the state’s conditional release data system are also classified as private data on individuals.¹⁴ These data can be accessed by criminal justice agencies, public defenders, and trial and appellate courts in the state.¹⁵ Data involving case planning are accessible to detention staff and corrections staff. In addition, a finalized case plan can be provided to community service providers for the purposes of monitoring and enforcing the conditions of conditional release programs.¹⁶

State law requires juvenile probation officers to transmit a mailed or electronic copy of a court’s disposition order to the school district or school if a youth enrolled in that district or school has been adjudicate delinquent for (a) a crime committed on the school’s property or (b) a serious crime, as described in state statute.¹⁷ The probation officer must also notify the youth’s parent or legal guardian that the disposition order has been shared and must notify the school when the student is discharged from probation. The probation

officer may also transmit a copy of the disposition order when a youth has been adjudicated delinquent for other crimes and is placed on probation, as well as when the youth is discharged from probation.¹⁸

Attorneys representing a child are granted access to any records, local social services agency files, and reports that form the basis of recommendations made to the court, provided that this information does not disclose the identity of a court-mandated reporter of child maltreatment.¹⁹ Finally, with the exception of the child and/or parents, any person who receives access to private juvenile court or peace officer records is not permitted to release or redisclose the records unless authorized to do so by law.²⁰

Information Sharing between Juvenile Justice Professionals & Education Professionals

Under federal and state law, parents (or students if aged 18 and older) are granted the authority to release educational data.²¹ Minnesota statute defines educational data as “data on individuals maintained by a public educational agency or institution or by a person acting for the agency or institution which relates to a student.” Consent is typically required for schools to disclose information to the juvenile justice system.²²

There are several exceptions to this rule. Schools are permitted to release information without consent in the following circumstances (note – this is not a complete list):

- In response to a court order²³
- In a health or safety emergency²⁴
- To the juvenile justice system, if information about the behavior of a student who poses a risk of harm is necessary to protect the health or safety of the student or other individuals²⁵
- Prior to adjudication, in the following circumstances: the disclosure is made to state/local juvenile justice officials and pertains to the ability of the officials to effectively serve a student prior to adjudication, and the officials certify in writing that those receiving the information will not disclose it to a third party outside of the juvenile justice agency

Schools are required to share certain types of information with law enforcement and the juvenile justice system more broadly. Specifically, schools must report:

- Suspected maltreatment of a child²⁶
- If school medical staff treat a student for an injury resulting from a firearm or other dangerous weapon²⁷
- If a student possesses an unlawful firearm²⁸
- If the records of a student reported as missing are requested

Schools must release the following to the juvenile justice system upon request: a student’s full name, home address, phone number, date of birth, school schedule, daily attendance record, any photographs, and parents’ names, addresses, and phone numbers.²⁹

Finally, schools are permitted to disclose to the juvenile justice system whether the following types of data exist for a particular student: use of a controlled substance; assaultive or threatening conduct that could result in

school dismissal; possession or use of weapons or look-alike weapons; theft; or vandalism or other damage to property.³⁰ Note that this law permits schools officials to disclose the existence of data, not the data itself.

Information Sharing between Juvenile Justice Professionals & Welfare System Professionals

Welfare data includes data that are collected, maintained, or disseminated as part of an individual's participation in programs that are part of the "welfare system." Such programs include, but are not limited to, programs within social service agencies, county welfare agencies, and county public health agencies.³¹

Minnesota law defines welfare data as private data that is not to be disclosed except in certain circumstances. These circumstances include (note – this list is not exhaustive):

- Subject to a court order³²
- To the appropriate parties in connection with an emergency, if the information is necessary to protect the health and safety of the individual or other individuals³³
- To county correctional agencies to coordinate services and diversion programs. This information is limited to name, client demographics, program, case status, and county worker information.³⁴

In addition, some information (such as address) can be disclosed to law enforcement in certain circumstances, such as when law enforcement officers are investigating an individual for a felony-level offense.³⁵

Health information, including substance use disorder information, that is collected, maintained, or disseminated by the welfare system is subject to stricter disclosure rules (described in the sections below).

Mental health data within the welfare system is also subject to its own set of rules regarding disclosure. Such information may be released pursuant to a court order or with the consent of the client.³⁶ The written consent must specify the purpose and use for which the case manager may disclose the information.³⁷ Such data also must be disclosed to law enforcement if the client or patient is currently involved in an emergency interaction and the information is necessary to protect the health and safety of the individual or others.³⁸

Information Sharing between Juvenile Justice Professionals & Health Professionals

Certain types of health organizations including health plans, health care providers, and hospitals (called "covered health care entities"³⁹) are subject to federal restrictions on the disclosure of individual protected health information (PHI). These restrictions are set forth in the Health Insurance Portability and Accountability Act (HIPAA) and its associated regulations.

In Minnesota, written consent is required for a covered health care entity to share PHI. The ability to grant consent to a minor's PHI rests with a parent or guardian, except in situations where a minor is able to consent to specific health services and the disclosure of information pertains to information about those services

(Klarqvist, 2018).⁴⁰ In addition, under Minnesota law, a person or provider that receives health records may not redisclose those records without consent, specific statutory or regulatory authority, or court order.⁴¹

Together, the federal and state laws identify certain circumstances when PHI may be disclosed without consent, including (note – this is not a complete list):

- In response to a threat to health or safety⁴²
- In a situation of abuse, neglect, or domestic violence⁴³
- To law enforcement officials, in specific situations⁴⁴
- In response to a court order or subpoena⁴⁵
- To an individual's other treatment providers⁴⁶
- To a correctional institution or law enforcement official with custody of a youth if the information is necessary to provide healthcare; ensure the health and safety of the youth or others; or to law enforcement at the correctional facility.

In most cases, health information that is contained within an education record, including treatment records, is subject to the provisions regarding disclosure of educational records, rather than those pertaining to the disclosure of health records.⁴⁷

Information Sharing between Juvenile Justice Professionals & Chemical Health Professionals

Substance use disorder information is subject to a unique set of restrictions. Federal laws and regulations dictate that written consent is required⁴⁸ for a substance use treatment program to disclose personally identifiable information.⁴⁹ Because a minor can consent to treatment without parental consent in Minnesota, it is the consent of the minor that is necessary for the disclosure of treatment records.⁵⁰

Federal laws state that information may be disclosed to relevant juvenile justice system officials when an individual's participation in a treatment program is a condition of the outcome of the criminal proceeding. The disclosure can only be made to officials who need the information in order to monitor a patient's progress (such as a probation officer responsible for supervision), and the patient must sign a written consent.⁵¹

Federal laws regarding disclosure do not apply in the following circumstances (note – this is not a complete list of exceptions):⁵²

- Communication between staff in the same treatment program, or between a treatment program and entity with direct administrative control over that program⁵³
- Disclosure to law enforcement in situations where a patient has threatened or committed a crime at a substance use treatment program or against personnel⁵⁴
- In the context of reporting suspected child abuse⁵⁵

In addition, disclosure without consent is permitted: to medical personnel in the case of medical emergency⁵⁶ and in response to a court order, in limited circumstances.⁵⁷



Chapter 4. Informal Factors Affecting Information Sharing about System-Involved Youth

The previous chapter makes clear that although federal and state laws restrict information sharing in several key areas, there are circumstances in which case-level information sharing is permitted. Yet our interviews with stakeholders indicated that there is a lack of knowledge about the type of information that can be shared, with whom, and at what point in time – a point that we elaborate on below.

The interviews also suggested a set of informal factors that affect information sharing on behalf of system-involved youth. These informal factors include risk aversion from front-line staff as well as leadership, organizational structures that create departmental and program silos within units of local government, organizational dynamics involving funding and turnover, inability to get parental consent to information sharing, and skepticism among some front-line staff about the benefits of information sharing for youth of color.

Below, we describe each of these informal factors, drawing substantially on 30 interviews conducted with juvenile justice professionals across the state.

Lack of Knowledge

The legal environment surrounding information sharing is complex and requires significant expertise to navigate. Federal laws governing health and education records, in combination with state statutes, rules, and county practices, can be daunting for front-line staff and managers to understand. Several of the juvenile justice professionals interviewed highlighted a lack of knowledge about the law as a significant barrier to information sharing.

Across Minnesota, larger public organizations tend to have more expertise in data practices. Larger counties, for example, sometimes have staff dedicated to navigating data practices laws. These data officers are available to field questions from front-line staff and managers, as well as proactively educate staff about data practices. Similarly, larger school districts tend to have specific policies in place to govern information sharing and in-house expertise on information-sharing regulations, whereas smaller districts lack that capacity.

Having a dedicated data officer is not the norm in Minnesota. As a result, it can be difficult for front-line staff to find reliable answers to information sharing questions. Few corrections staff we interviewed had access to, or knew where to find, official county-level guidance around information sharing. When they had questions, some went to long-time staff who had picked up the ways of working over the years. Others went to the County Attorney for legal advice, which could pose a conflict of interest.⁵⁸

Within schools, principals are often the de facto resource for information sharing questions, though they may or may not have the specific expertise. Sometime the person at the front desk is approached, though they are unlikely to have the necessary expertise.

Despite the Minnesota Department of Administration's expertise and capacity to support counties, as well as schools, on this question, the agency did not appear to be a regular resource for staff.

Few stakeholders identified the Minnesota Department of Administration as a resource for information sharing, despite the agency's expertise and capacity to support counties, as well as schools, on this issue.

Risk Aversion

There is an understandable concern among front-line staff, managers, and leadership about violating data practices laws. Some juvenile justice staff that we interviewed were wary of violating the complex federal laws involving education and health records, for fear that any violation would leave the county legally liable. Breaching the law could also put participants in county services at risk, while jeopardizing relationships between county workers and recipients of services.

As noted above, the complex layers of guidance that govern information sharing at federal, state, and local levels often leave staff confused about when or how to share information. Rather than unwittingly break the rules, some staff choose not to share information at all. The data and information training that school staff receive, for example, stresses that accidentally releasing private data would be a significant violation, causing school staff to decline to share information rather than make the "wrong choice." Even staff who are inclined to

share case information with colleagues in other departments report being stymied by a lack of guidance or confusing guidance about when and how to share case information.

Interviewees reported a similar reluctance to share information on the part of leadership and outside organizations. Legal counsel approached for guidance on the law sometimes advise against sharing information, citing the risk of the laws' liability language. Juvenile probation officers interviewed found it particularly difficult to retrieve requested information from mental and chemical health service providers, who they assumed were similarly apprehensive about breaching federal laws regarding the disclosure of health records.

Federal laws provide guidance about how to share information lawfully and appropriately, rather than prohibiting it completely.

Our interviews with data practice experts in Minnesota indicate that information sharing practices at the local level are often more restrictive than the law requires. For instance, federal health and education laws (HIPAA and FERPA, respectively) are sometimes interpreted as prohibiting the sharing of health and education information. Instead, the experts we interviewed offer a different framing: the federal laws provide guidance about how one may share information lawfully and appropriately, rather than prohibiting it completely (Wiig & Tuell, 2013).

Organizational Structures that Create Departmental and Program Silos

The juvenile justice system has historically worked separately from social service and public health departments, as well as schools. Yet because theories of how best to serve system-involved youth have shifted from punitive to rehabilitative responses, there is a growing need for juvenile justice professionals to work together with colleagues in other departments and agencies on specific cases. Unfortunately, many remain siloed within Minnesota.

Departmental and agency silos create obstacles to information sharing even when it is permitted by law. This can place a burden on juvenile justice professionals in the pre-trial phase, when timelines are short, and consent can be difficult to secure. At this phase, information from other departments (such as social services) may contribute to a more accurate risk assessment. Yet the siloed structure of the departments can impede information sharing. The probation officers we interviewed reported sometimes being unaware that social workers or mental health workers within their department were also working with the same youth and family, even though it is legally permissible to share this information.

Silos can also generate different cultures that limit the willingness of staff to share information in order to work collaboratively. Staff in one department may view the mission of another department as incompatible with their own. For instance, mental health staff may view juvenile justice staff as interested in punitive responses to juvenile delinquency, whereas juvenile justice staff may perceive mental health staff to be uninterested in public safety.

Organizational theorists have used the phrase "loose coupling" to describe decision making in complex systems with multiple departments, including juvenile justice (Singer, 1996). Each department may theoretically understand the other's position in an individual case, but each will act to further its own goals and objectives. For more serious violent offenses, agencies may be more tightly aligned about the proposed

response, but such cases are relatively rare. Most cases involve lower-level offenses where it may be harder to align missions, and where external factors, like the availability of residential treatment beds, may impact the outcome (National Research Council, 2013). Finally, programs and departments outside of juvenile justice may not have “bought into” information sharing as in the best interest of the youth, for a variety of reasons.

It is worth noting that the formal restrictions on information sharing are considerably more onerous for juvenile justice professionals than for professionals in health or welfare departments. For instance, if a court order or written consent is not present, social services is permitted to share only limited information with corrections. In contrast, case level information from law enforcement and corrections is more broadly available to social service staff, provided the information sharing promotes the best interests of the youth.

Organizational Dynamics Involving Funding and Turnover

Funding concerns and turnover also generate obstacles to information sharing. Funding concerns work in two ways: at times creating a reluctance for one department to accept cases from another (thereby closing the case in the original department), while at other times leading to a hesitation to relinquish a case to a different department. Some county departments are protective of their budgets, which can make them unwilling to field cases from a different department – particularly when such cases are relatively high cost. Conversely, because payments follow cases, departments may act territorially over their cases.

Both approaches were highlighted by our interviewees. One juvenile probation officer drew attention to the 2008 financial crisis as an example of the relationship between funding and collaboration. This individual reported that following the financial crisis, county agencies that had previously worked well together pulled back from collaborations in terms of resources and relationships – essentially a circling of the wagons around remaining funding after federal dollars decreased.

In general, if funding concerns create contentious or adversarial relationships between staff in different departments, this can complicate information sharing, even when such sharing would be in the best interests of youth and their families.

Funding concerns are also relevant for supporting collaborative efforts across departments and for improving existing services. Additional funding may be needed to implement collaboration and information sharing initiatives if there is a need to hire new, dedicated case managers or train staff in a new method. Funding to improve existing services may also be necessary for professionals to feel comfortable sharing information, and collaborate more broadly, across departments.

Just as relationships can facilitate information sharing and collaboration, staff turnover can inhibit it. Several stakeholders reported needing to repeatedly generate buy-in for collaborative programs when seasoned managers and front-line staff were replaced with fresh faces. More experienced professionals may have greater knowledge of the rules (and when and how to work around them legally) and may be more willing to bend the rules in the interest of efficiency or to meet strict timeline rules. In rural counties, staff turnover can be high.

Turnover that is a product of organizational practices (rather than staff departures) is also viewed as problematic. One corrections professional lamented that because the judge assigned to the juvenile docket rotated frequently, each new judge required onboarding to the County’s Crossover Youth Program. In the same

county, frequent leadership turnover meant that Crossover program staff were constantly working to justify the initiative's existence, rather than focusing on the programming itself.

Inability to Secure Parental Consent to Share Information

Barriers having to do with gaining consent are not primarily about parents declining to consent to share children's information. Rather, these barriers typically involve the difficulties that some probation officers have locating parents. Particularly when a child is in detention and tight deadlines are in play, locating parents to obtain consent can be critical. If consent is not possible, a court order from the judge can allow the information sharing to take place to make a risk assessment that can remove a child from detention.

Parents often face barriers, including transportation barriers, to traveling to the county office or additional service providers to grant consent. If a parent lacks a license or a mode of transportation, traveling to multiple locations can be difficult. Some parents may work multiple jobs, limiting their ability to make the trip. Others may be unstably housed or otherwise difficult to reach by telephone.

Barriers to securing consent often involve the difficulties in locating parents, rather than the refusal to grant consent.

Role confusion can also contribute to difficulty in obtaining family consent: facility staff may feel it is the role of the probation officer to obtain consent to release information, while the probation officer might conclude it reasonable that the facility staff obtain consent if parents are visiting frequently.

Finally, parents may be reluctant to grant consent in some instances. According to one respondent, some parents may be hesitant to alert the system to additional problems in the family. Some families feel apprehensive about being judged by professionals in the juvenile justice system as the root cause of their child's situation (Pennell, Shapiro, & Spigner, 2011). Still others may be reluctant to trust representatives of the juvenile justice system, particularly if cultural experiences have led to a general distrust of system authorities within their community (McKay, et al., 2004).

Skepticism Around Benefits for Youth of Color

Providing rehabilitative services rather than punitive measures is often touted as one of the benefits of information sharing efforts. But the perceived inadequacy of services available for youth of color, who represent a disproportionate number of youths in the system, makes some staff question the utility of programs that aim to coordinate services. Others see in information sharing the hazard of recreating an inequitable justice system, where implicit biases may lead to information sharing initiatives that contribute to harsher outcomes for youth of color.

For example, one individual interviewed for this project questioned the basic assumption of information sharing as benefitting youth, particularly when youth of color are concerned. While admitting that sharing targeted information about a child can be helpful in some cases, this person also felt that it was an oversimplification to regard more information as always better, particularly given implicit biases and historical

inequities within the criminal justice system. This sentiment was echoed by several stakeholders and was a prominent topic of discussion at the first meeting of the advisory group for this project.

Many counties serve a disproportionate number of youths of color in the corrections and justice systems, but culturally tailored services are limited across service areas. A 2012 study found that respondents from 97% of Minnesota counties stated that their diversion programs did not have a culturally specific component (Swayze & Buskovich, 2012). One county with a relatively large urban center had only one service provider for male African American youth. Similarly, the 2017 JJ21 project on Mental Health and Collaboration found that 63% of respondents disagreed or strongly disagreed that there were enough culturally specific mental health or substance use disorder programs for youth available in their counties (Juvenile Justice 21, 2017). In general, larger counties tend to have more services available both through the justice system and in community than do smaller counties.

While there are certainly advantages to information sharing in discrete cases, there are also risks that are likely to fall disproportionately on youth of color. In the next section, we elaborate on several of the key risks associated with information sharing in Minnesota.



Chapter 5. Risks of Information Sharing

Given the hesitation that some stakeholders communicated about information sharing, it seemed critical to elaborate on the risks of information sharing, particularly for youth of color. While many technical guides pertaining to information sharing mention privacy protections as important, few describe the risks involved in sharing information about a youth – even when information is shared appropriately and within the confines of the law. In this section, we describe several risks associated with information sharing initiatives and collaborative programs, drawing on our interviews with stakeholders as well as outside research. The risks discussed in this section include the risks of self-incrimination, implicit bias and lack of knowledge among staff, the “net-widening effect” of information sharing programs, the collateral consequences of system involvement for youth in Minnesota, and the risks related to out-of-home placement for Native youth.

Self-Incrimination

Both federal and state laws grant youth involved with the juvenile justice system a right against self-incrimination. Yet many of the programs that aim to address the multiple needs of youth and families involved in the juvenile justice system throughout collaboration require early and comprehensive screenings and assessments. To realize the benefits of these program, youth often must answer questions that can elicit

information about offending behavior, putting them at risk of incriminating themselves and facing prosecution for new offenses (Rosado, 2012). In this process, they risk losing “control over who sees sensitive information about them and when, and their right to comprehend the significance of court proceedings” (Juvenile Justice Information Exchange, 2019).

For instance, during the intake process, a child is often interviewed by a probation officer or juvenile court officer before formal charges have been filed and the right to counsel has been established. Early disclosure may help youth access services. But information sought from court-involved youth as part of a behavioral health screening, assessment, or treatment program within the juvenile justice system, is not protected by the same federal and state laws that govern the confidentiality of information gathered in clinical settings (Rosado & Shah, 2007). Risk and needs assessments and competence evaluations can elicit incriminatory statements about offending behavior (Rosado, 2012). Some but not all states have recognized the potential for self-incrimination at the screening stage and enacted laws to protect against it (Rosado & Shah, 2007).

Diversion processing is a moment when youth can make incriminating statements. According to a 2012 report by the Minnesota Department of Public Safety:

“In the event the youth makes incriminating statements during diversion of informal processing, a decision must be made as to whether this information can be used against youth at a later time. It must be decided also if any protection against incrimination applies to the entire period of diversion, or only during intake, assessment or treatment elements of the program... Programs must be especially careful when requiring an admission of guilt in order to participate in diversion, as this could potentially be used against them if their case was returned to court. An argument can be made that such an admission at the time of diversion could be deemed involuntary and suppressed” (Swayze & Buskovich, 2012).

Minnesota has enacted some protections against self-incrimination (described in greater detail below) but ranks below other states in the number of laws in place to protect youth.

Implicit Bias and Lack of Knowledge among Program Staff

Several interviews highlighted the importance of placing discussions about information sharing within the context of Minnesota’s juvenile justice system and the racial disparities that persist within the system. As mentioned earlier in the report, youth of color are overrepresented in Minnesota’s juvenile justice system and this overrepresentation has increased in recent years. At the same time, juvenile justice professionals – from law enforcement to court officials and corrections staff – are overwhelmingly white.

In a system with such inequities, there are multiple opportunities for implicit biases – those attitudes and stereotypes that subconsciously affect our understandings and actions – to affect how youth of color are perceived and treated by system actors. Indeed, several respondents drew attention to how difficult it is for white professionals to truly understand how families of color experience the juvenile justice system. In addition, despite attention to implicit bias within juvenile justice, some stakeholders still felt that biases from some law enforcement and corrections staff, as well as judges, negatively impact youth of color. This sentiment was echoed in discussions of the advisory group as well.

In a system with pervasive racial inequities, there are multiple opportunities for implicit biases to affect how youth of color are perceived and treated. ... Implicit biases are particularly relevant for information sharing discussions, as information can easily be misinterpreted or taken out of context when it is communicated without a broader understanding of a family's circumstances.

Implicit biases are particularly relevant for discussions about information sharing, as information can easily be misinterpreted or taken out of context when it is communicated without a broader understanding of a family's circumstances. In our interviews, several individuals expressed concern that the information shared about youth is rarely positive, like participation on a school sports team. Rather, it is often negative, about a failure to participate in a referred resource or a list of traumas experienced. One juvenile probation officer observed that information received from schools was often negative, as a desire to be free of the youth was frequently the precursor to the contact. As one respondent pointed out, while policies outline how and why information about youth can be shared, one can never be sure how the information will influence someone's actions once it is in their head.

In addition, a lack of knowledge among program staff about issues outside of their area can alter how a youth is assessed. For instance, a juvenile justice professional not trained in mental health may interpret signs of depression and anxiety as aggression or defiance. When that assessment is documented in the record, it can result in system entanglement that may have otherwise been avoided.

Similarly, information may be unintentionally misinterpreted if a juvenile justice professional (including a judge) lacks the full context of a child's situation. Several stakeholders noted the inadequacy of the paper trail alone in assessing a youth or family; without an understanding of trauma, for example, information shared can be detrimental to a youth's criminal history and can impact on the court's recommendations.

The "Net-Widening Effect" of Information Sharing Programs

Many initiatives call for the screening and assessment of youth before they have formally been adjudicated delinquent by the court, with the goals of diverting or matching youth with appropriate services. But screening and assessment can cause a "net-widening effect," in which youth exhibiting symptoms or with a specific diagnosis, enter and are entrenched in the justice system longer because that system can more easily provide health resources than community resources in an era of restricted budgets (Rosado & Shah, 2007).

Increased system involvement may be particularly problematic if the services provided by the system are not designed to promote success – for instance, because they are not culturally tailored to the population being served. This may pose a particular risk to youth of color. At the same time, once information is shared, it has the potential to further entrench youth in the system if such information is used in future delinquency decisions.

As one example, diversion programs are designed to offer an alternative to the traditional court process as well as connect youth with appropriate social services, as needed. However, some stakeholders that we interviewed felt that youth of color are not set up for success in such programs, with mentors that don't look like them, literature unavailable in their language, and services that are geographically difficult for them to access. When

youth “fail” diversion programs, they are sent back through the delinquency system. Because Minnesota lacks strong protections to ensure that information divulged by a youth during diversion cannot be used toward a finding of guilt if the youth goes back to court, this represents another risk of information sharing for youth.

Collateral consequences

The collateral consequences of engagement with the justice system can be far-reaching, and a comprehensive review is outside the scope of this paper. However, a discussion of one such consequence helps to illuminate some of the risks of information about juvenile justice-involved youth being shared more broadly across systems.

In Minnesota, background checks are required for working in Department of Human Services (DHS)-licensed facilities or when working with vulnerable groups like childcare or healthcare settings. The background check is required not only of direct service providers, but also for support staff like janitors and food service workers. At the low end of disqualifications, individuals face a seven-year disqualification for a low-level misdemeanor in their history, even if it transpired in childhood and they were not adjudicated delinquent. There needs to be only a preponderance of the evidence that the act occurred.

For example, a stay of adjudication premised on a plea or admission could constitute a preponderance of evidence and result in failure for an individual to pass the background check. In this way, contact with the justice system can be harmful over the course of a youth’s life when that information is accessed by DHS, preventing the individual from accessing a wide range of employment opportunities (Collateral Sanctions Committee of the Minnesota Sentencing Guidelines Commission, 2008). (There is an appeal mechanism available for some disqualifications. See Juvenile Records in Minnesota for more on DHS licensure and appeal mechanisms: <https://dps.mn.gov/entity/jjac/Documents/Juvenile%20Records%20in%20Minnesota.pdf>).

One juvenile justice advocate warned that once the infrastructure to share information is in place, different actors can use that infrastructure toward their own ends. As one example, Minnesota statute requires every county to report to the Bureau of Criminal Apprehension the name and date of birth of every diversion program participant and that information related to their success or failure in the program be attached to the youth’s criminal history. This information would then be accessible to DHS background checks. The Department of Public Safety report recommends eliminating the reporting requirement, since there is no way to use the data for program evaluation (Swayze & Buskovich, 2012).

Out-of-home Placements

While a full investigation into the risks of information sharing to Native youth who live on reservations specifically is outside the scope of this paper, as their delinquencies may be governed by both Tribal Law and Minnesota state statute, it is important to note how the complex web of Tribal, state, and county laws and rules that govern offenses committed by Native youth often make these youth invisible – an irony we fully acknowledge as we decline to detail the harm specific to this group in our project. But the disparities experienced by Native youth in Minnesota – both on and off the reservation – are often more severe than those faced by other youth.

One respondent noted that information shared by the juvenile justice system to child welfare was often harmful for youth of color, and for Native youth in particular, who disproportionately landed in out-of-home placements compared to white youth when child welfare was brought in for consultation. Indeed, in 2017 in Minnesota, Native American youth were 5.07 times more likely to be implicated in cases involving secure detention settings than white youth (Figure 2 above) (Minnesota Department of Public Safety Office of Justice Programs, 2017). The respondent felt that sending Native youth to often-unstable group homes set them up for failure, if and when they encountered the juvenile justice system.

While the federal Indian Child Welfare Act law (ICWA) attempts to place Native youth with Native families when out-of-home placements are deemed necessary, many Native families are unable to pass the screen for foster care eligibility. Decades-old infractions may keep a Native family from fostering a Native youth, who may be placed ultimately with a non-Native family. The respondent recommended that support be provided for Native families, and that the screening test be reviewed for bias against Native families.

Engagement with county child protective services can intersect with ICWA for legal custody matters. In those cases, information about the youth may be shared with the Tribal representative, who represents the Tribe's interest. Acknowledging that not all tribes have the financial resources to hire lawyers for ICWA proceedings, the family may be represented by a social worker or an elder with knowledge of the system but without formal training. Because the balance of power lies with the County in many cases, children frequently land in out-of-home, non-Native placements, which increases their risk of crossover over should they encounter the justice system. Though disproportionate rates of out of home placement affect youth of color more generally, the disparities are often largest for Native youth.

African American youth, too, are disproportionately impacted by out-of-home placements from the child welfare system. They represent 15% of the US population but 36% of those placed into out-of-home care (Models for Change, 2011). In Minnesota, African American youth are 1.77 times more likely to be implicated in cases involving secure detention than white youth (Figure 2 above) (Minnesota Department of Public Safety Office of Justice Programs, 2017). In one study, researchers looked at ten years of data from Illinois to understand how being a "foster youth" might impact on African American youths' risk of receiving a delinquency petition, rather than having their charges dropped. The researchers found that having an open child welfare status more than doubled the risk of a formal delinquency petition for this group. And since children in the welfare system are disproportionately African American, one's status as a "foster youth" can contribute to further justice system entanglement at the individual level and disproportionate minority contact (DMC) at the population level. This is a critical finding when considering information sharing programs. It begs the question: might it sometimes be in the youth's best interest to create separations between their justice system and child welfare systems cases? (Models for Change, 2011).



Chapter 6. Mitigating Risks

The previous chapter describes a series of risks associated with information sharing and collaborative approaches more broadly. In this chapter, we provide an overview of laws and practices that can mitigate some of these risks, drawing both from our interviews and relevant research. Throughout the chapter, we draw attention to the potential for such approaches to mitigate risks for youth of color in particular.

The laws and practices are divided into the following groups: limiting the information that is shared; ensuring that consent is informed; protections against self-incrimination; monitoring and evaluating outcomes by race; reducing implicit bias and lack of knowledge through training and practice; “putting families in the driver’s seat”; and engaging community.

Limiting the Information that is Shared

The laws that govern information and data sharing often include provisions limiting information sharing to particular data items – for instance, welfare system actors can share information with corrections staff for the purposes of coordinating services, but absent client consent, this information is limited to client name, demographics, program, case status, and county worker information.⁵⁹ Similarly, even when the disclosure of

health information is legally permissible, federal law requires that the disclosure of information is limited to the “minimum necessary” to accomplish the stated purpose.⁶⁰

These legal limits on information sharing try to balance an individual’s right to privacy against other compelling professional or public interests (such as the ability of law enforcement to respond to an emergency). Yet our interviews suggest that the details of such laws and regulations are not widely known. This suggests that educating juvenile justice professionals (as well as those outside the system) on data practice law is an important component of mitigating the risk to individuals.

In addition, limiting the information that is shared may mean limiting a youth’s involvement in multiple systems whenever possible. One stakeholder mentioned that for minor offenses, there is often not a need to share information across agencies. Another argued that if a delinquency case indicates the need for social services, then the delinquency case ought to be closed.

It is worth noting that the juvenile justice professionals we interviewed had different approaches to information sharing. Some respondents, including public defenders and probation officers, advised clients and their families to openly share information with the county in hopes of receiving a lesser disposition. Other responders, including advocates and county attorneys, advised clients to share as little information as possible, and then only on a need-to-know basis.

As one example of the latter approach, in one urban county, the juvenile diversion program aims to divert as many youths as possible from delinquency proceedings and to do so while restricting the amount of information shared with the third-party organizations that provide services to diverted youth. With parents’ consent, diversion staff provide a top-line summary of the youth’s uptake of other county services, with no additional detail. In most cases, the top-line information was perceived as sufficient to allow the service provider to provide services effectively. In addition, sharing the information with a third-party provider meant that it was not traveling further within the county.

The details of data practices laws are not widely known, suggesting that educating juvenile justice professionals is an important component of mitigating the risks to individuals.

Ensuring that Consent is Informed

The law requires that government actors gain free and fully informed consent equally, from all parents.

Although most juvenile justice data is private data on individuals, the law permits a considerable amount of information sharing if there is informed consent. Informed consent, often referred to as a “release,” is written permission from a youth (or more often, a youth’s parents or guardians), that allows a government actor to release the youth’s private data to another organization or person.⁶¹

For a consent to be valid, the individual giving consent must have sufficient mental capacity to understand the consequences of do so.⁶² In addition, Minnesota Rules require that a valid informed consent must: be voluntary and not coerced; be in writing; explain why the new use or

release is necessary; include any known consequences for giving consent; and if the individual giving consent is a minor or has a legally appointed guardian, it may be necessary to obtain a parent or guardian's signature in some instances.⁶³

Parents may have different views about consent, as well as differing abilities to understand the implications of granting consent. For instance, some parents may be less inclined to intervene or ask questions when signing consent forms to share information, whereas others may be more inclined to intervene to prevent information sharing. Regardless of the parent's outlook, the law requires that government actors gain free and fully informed consent equally, from parents of all backgrounds. Parents who may not have a high degree of literacy for technical jargon, or whose first language may not be English, deserve special care to make sure they understand what it means—and potential risks—to consent to share their child's information.⁶⁴

Protections Against Self-Incrimination

To minimize the risk of self-incrimination from information obtained during screenings and assessments, states have adopted a series of laws and policies that offer protections for youth. The Juvenile Law Center (JLC) has a checklist for all states for use in strengthening laws around protecting youth from self-incrimination (see Appendix B). Of the 16 model rules or laws recommended, Minnesota had four in place as of 2007. For instance, statements made during court-ordered evaluations are inadmissible for purposes of adjudication in Minnesota. Minnesota has also upheld the right against self-incrimination during court-ordered treatment in situations where youth were threatened with probation revocation or another penalty for failing to "cooperate with treatment."⁶⁵

The practices of juvenile justice professionals can also help minimize opportunities for self-incrimination. One public defender we interviewed chose to participate in multi-disciplinary team meetings for just this reason: to protect against the sharing of incriminating information.

Monitoring and Evaluating the Outcomes of Systems-Involved Youth by Race

Collecting data on outcomes, including by race, is critical to ensure that collaborative programs produce the desired outcomes and are not recreating inequitable systems, a finding prefigured during the JJ21 Mental Health and Collaboration meetings, which recommended developing and sharing data on the effectiveness of Crossover programs (Juvenile Justice 21, 2017). Because information sharing may pose particular risks for youth of color, collecting outcomes data on youth who are involved in multiple systems (either within or apart from a collaborative program) is also important for evaluating the consequences of broader access to information for different populations of young people.

Currently, data on race of justice-involved youth is collected inconsistently across the state. Barriers around collecting race data included inconsistent provision from law enforcement, inconsistent entry in information technology systems, or lacking the information until meeting with the youth (Swayze & Buskovich, 2012). Data collection on juvenile diversion programs provides an example. Because diversion is a formal decision point recognized by the Federal Office of Juvenile Justice and Delinquency Prevention, states receiving certain federal dollars – Minnesota included – are required to collect and submit data on the race and ethnicity of

youth who are diverted from formal processing in any way (decline, diversion, dismissal) (Swayze & Buskovich, 2012).

A 2012 study on diversion programs in Minnesota found that roughly one quarter of Minnesota counties reported maintaining complete race data, compared to 22% of counties where no race data was collected. The remaining counties maintained race data on a spectrum of completeness, didn't know if it was collected, or didn't respond to the question. The study recommended that county attorneys should annually disseminate data on youth diversion, including completion and failure rates and youths' age, gender, race, and ethnic identity to "explore for differential outcomes and facilitate federal reporting for the Juvenile Justice and Delinquency Prevention Act" (Swayze & Buskovich, 2012).

In addition, an important aspect of monitoring and evaluating outcomes for Native youth in particular is the ability to distinguish between youth residing in Indian Country and other Native youth to monitor for disproportionate outcomes at any stage in the system. This would require an amendment of the JJDP, though Minnesota and Minnesota counties could also choose to collect this information voluntarily (Rolnick, 2016).

"Putting Families in the Driver's Seat"

Some respondents underscored that family members are experts in their own lives. One stakeholder noted the connotative differences between the phrases "helping" community and "serving": one places power with the group doing the helping; the other locates power with the people being served. This individual noted that serving community and the youth in the county's care should be the goal and that government and community resources should support parents in supporting their children.

In an ideal world, according to one source, all the systems would "put the family in the driver's seat," to allow them to articulate their own priorities. In their view, information sharing programs could be useful – but only if charged with supporting the family's desires. Rather than putting families on defense as when a child is faced with charges of delinquency or during a child protection case, this way of working would lift up the family and ask system players to listen.

Family members are experts in their own lives. Information sharing programs can be useful – but only if charged with supporting a family's desires.

Our interviews highlighted several approaches to supporting families:

- ◆ Several stakeholders advocated for including youth and parents/guardians in collaborative decision-making processes. Many of the collaborative programs that we reviewed in this report utilized a cross-departmental team to review cases. But very rarely were parents or the youth involved in those meetings. In some cases, the family was apprised of the decision after the group of county staff had made a recommendation. (See also Pennell, Shapiro, & Spigner, 2011.)
- ◆ Several counties in Minnesota, including Beltrami among others, employ family group conferencing (sometimes called the New Zealand model) to allow space for families to voice their priorities. One of our interviewees described how in one county, stakeholders from several systems came together to assess the needs of families and to boost communication. But without the family present, the professionals could not accurately determine which needs families wanted to prioritize. Family group

conferencing brings together the youth, family, stakeholders from the county, and other supports to formulate a joint plan of action. The meeting is led by a neutral facilitator. The objective of the process is to involve friends and family in decision making, rather than leaving decisions to legal authorities and service providers (American Bar Association, 2018).

- ◆ Another respondent – a community corrections professional – recommended considering the system from the family or youth’s point of view, especially with respect to the multiple interactions that a family must have when interacting with different systems at the same time (see also Heinrich, 2016). When information sharing or collaboration is necessary, programs may centralize communications with one county contact, cutting back on multiple contacts with different agencies and alleviating the burden on families.
- ◆ Functional Family Therapy (FFT) and Multi-Systemic Therapy (MST), two interventions that support the family as well as the youth who may be at risk of out-of-home placement, were endorsed by several stakeholders as holistic approaches that take the entirety of the youth’s context into account (see also Center for the Study of Violence, University of Colorado at Boulder, 2004). One responder also appreciated that MST mitigated the risks of individual bias by bring multiple perspectives together. Hennepin County employs MST.

Research also suggests the following approaches to engaging and supporting families: youth are served in the context of family and community; youth and their parents are prioritized in defining the problem, developing goals, and developing the action plan for change; the plan for change reflects the child and family’s cultural heritage; when youths must be removed from their families, every effort is made by both the child welfare and juvenile justice systems to reduce the length of separation and maintain family connection, and every effort is made to keep children in their schools; or, if in a justice system facility, to design an education plan to keep youth connected to school for their transition back into the community (Pennell, Shapiro, & Spigner, 2011).

Reducing Implicit Bias and Lack of Knowledge through Training and Practice

Our interviews indicated the importance of training in implicit bias, as well as trauma and mental health, for professionals working with juvenile justice-involved and -adjacent youth. While these trainings have become standard in many counties, there may be opportunities to augment trainings to focus on implicit bias in the context of collaborative programs and information sharing initiatives. Training in trauma and mental health may be important to ensure that signs of either are not misinterpreted as aggression. In addition, training in the mechanics of new information sharing processes is also important for mitigating risks to youth. This includes understanding how other agencies work, about the purpose and value of a new initiative, and about new practices and job requirements (Wiig & Tuell, 2013).

Stakeholders also told us about practices that function to minimize bias when receiving information about youth and their families. For instance, to avoid forming pre-conceived notions of a certain case, several respondents in their interactions with families chose to read a case file only after meeting with child and family. Some respondents noted that the language in the paperwork can subtly skew one’s assessment of a situation; meeting the family in the home (depending on the staff’s role) allowed for a more nuanced picture of the family to emerge before the jargon of the paperwork took over.

Engaging Community

The Minnesota Juvenile Justice Advisory Committee noted in its 2017 annual report that community awareness and buy-in are “critical components” of information sharing expansion efforts (Minnesota Juvenile Justice Advisory Committee, 2018). Stakeholders interviewed for this project also spoke of the importance of engaging not just the youth and family in decision making, but the entire community around information and data sharing initiatives.

Gaining the trust of historically marginalized communities requires approaches that are culturally humble—for example, by spending time with communities on their own terms.

Small but visible steps, like hosting a community feast or employing a Native person to act as a court navigator for families, may go a long way toward building bridges with Native American communities, according to one respondent. This respondent engaged in frequent listening sessions with the Native community while working on ICWA child protection cases in order to be transparent with the community. That the respondent also identified as Native allowed them to engage with the community more authentically.

Engaging with communities on equal terms may also require government actors to relinquish some power, according to one respondent. For example, this individual described a policy implemented by the Hennepin County Attorney’s Office that prohibited the removal of parental rights without the support of the Tribe. The policy is just one example of an approach that is both culturally adaptive and put the county on equal footing with the Tribes.

“Data is not bad, but data without any kind of oversight that includes the community does not benefit us.”

St. Paul community
advocate Marika
Pfefferkorn (Melo, 2019)

Ramsey County's Joint Powers Agreement

The case of the now-dissolved Ramsey County Joint Powers Agreement (JPA) illustrates the importance of including community when developing and implementing programs that involve the sharing of private information or data. A JPA allows two or more public entities to combine to create a new authority to jointly exercise common powers.

In late 2018, the City of St. Paul, Ramsey County, and St. Paul Public Schools proposed to enter into a Joint Powers Agreement to “implement a collaborative system of information collection and sharing and develop and apply predictive analytics to that information to,” among other objectives, “inform and promote prevention and effective interventions to reduce and eliminate youth involvement in the juvenile justice system.” The researchers would study the data and attempt to identify youth at risk of future criminal justice system involvement, with the goal of providing early resources to interrupt the process (Pomeroy, 2019).

Although the proposed JPA focused on population-level data sharing rather than the case-level information sharing covered in this report, the concerns of community advocates echo some of the risks enumerated in this report. Community advocates worried that the predictions would serve to racially profile children: using data from subjective suspensions for classroom behaviors like eye rolling or talking back, for example, which teachers disproportionately assign to students of color and students with disabilities, would only increase the inequality of the system (Lonetree, 2018). Further, the agreement did not outline parameters for accessing the data or provide a process for individual authorization and informed consent, in violation of Minnesota state statute. The JPA also prohibited community participation in oversight (Jones, LaBlanc, Pfefferkorn, Alberg, & Szczepanski, 2019).

An outreach plan that did not adequately engage community partially drove community organizing against the JPA. Marika Pfefferkorn, co-founder of the Coalition to Stop the Cradle to Prison Algorithm, said the community never called for a data-sharing plan to predict future criminal justice system involvement (Pomeroy, 2019). Opponents to the JPA argued that recommendations to prevent youth from landing in the criminal justice system generated by separate community engagement sessions were co-opted by government entities in support of the JPA. They also pointed to Chicago, Illinois, where a similar plan to identify children at risk of abuse generated many false positive that overwhelmed case workers, while failing to flag parents who later killed their children (Jackson & Marx, 2017).

Finally, while the government partners ostensibly had best intentions in mind when conceiving of the JPA, the project was vulnerable to changing political agendas. “What would prevent the governing agencies from accessing this data in reaction to hyper-politicized and racially biased hysteria in the name of ‘safety’ for preventive crack downs or targeted police suppression?” warned a community group’s policy brief (Jones, LaBlanc, Pfefferkorn, Alberg, & Szczepanski, 2019). The question is not rhetorical, and at the time the brief was written, there was nothing to prevent the platform’s use toward alternative ends. The JPA was dissolved in late January 2019 after five years of planning.



Chapter 7. Successful Collaboration and Information Sharing

What does a “successful” collaboration look like? And what mechanisms are necessary for information sharing that both protect the rights of individuals while facilitating coordinated or collaborative programming in Minnesota? In this section, we describe several approaches and factors that are often embedded in successful information sharing initiatives. These include buy-in from key stakeholders; tailoring to local context; personal relationships between departments and programs; partner engagement; specialization; leadership with varied perspectives; and legal mechanisms.⁶⁶

Buy-in from Key Stakeholders

Among the various information sharing and collaborative initiatives described by our stakeholders, collaboration often began with individuals—one or two people willing to initiate the push for change. Similarly, it was often individuals who facilitated or blocked the process from taking off. For example, one stakeholder described how an information sharing initiative failed to gain traction in a county until a human services director more in favor of joining forces was hired.

County attorneys often have political clout and are responsible for sentencing recommendations. Gaining their buy-in to implement initiatives to share information across agencies is perceived as critical. One County Attorney that we interviewed was struck by the futility of punitive responses to mental health problems, ultimately leading this person to advocate for a formal information sharing program. This respondent noted that particularly in rural counties, prosecutors have power that they could use to advocate for information sharing initiatives. The responder guessed that many prosecutors would be in favor of such programs but noted that there had been little effort to educate them specifically about the benefits of these programs.

Public defenders are another group to bring on board when implementing information sharing programs. While some may be concerned about the possibility of harm to their clients, some may also see the benefits of having access to additional information about their clients that allows them to argue for lesser dispositions.

Finally, both our interviews and outside research suggest that having support from front-line staff is critical when implementing new programs. One respondent cautioned that implementing these programs from the top, down, without generating support from direct service staff, can be harmful for parents and children. Another underscored how long it took (three years) to convince front-line staff of the program's merits.

Research suggests that giving front-line staff the opportunity to give input and show commitment, clear communication of expectations, assurance that proposed reforms will result in greater efficiency and improved practice, and tangible assurances that new practices and protocols will be sustained all help generate buy-in (Mertens & Blom, 2015). In contrast, supervisors have a different set of needs: clarity of goals, expectations, and outcomes; opportunities for leadership; permission to navigate the pace of change; and the capacity to measure process and provide quality assurance (Mertens & Blom, 2015). A clear mission for implementing an information sharing program, such as to reduce racial inequities or to decrease youth involvement in the juvenile justice system, can help to generate buy-in across both sets of actors (Juvenile Law Center and RFK National Resource Center for Juvenile Justice, 2015).

Tailored to Local Context

Information sharing programs look different in every county. Some focus on youth with low-level offenses; others focus resources on high-intensity cases with multiple needs. Some information sharing programs are implemented at intake; other counties use information sharing for post-adjudication case management. Ultimately, information sharing programs have a greater likelihood of taking hold if they are tailored to the local context and needs of the county. Differences may be driven by demographics or external factors, like the existence of a secure detention facility or psychiatric facility within county lines. Several of our stakeholders also observed how programs evolve over time; for example, law enforcement ultimately supported diversion through information sharing programs in one county, though it took some time. On the flip side, one county that went years without a high-level meeting to address the structural flaws of one information sharing program ultimately saw the program close (for several reasons).

The context may also extend to unacceptable outcomes for youth in the system. Several respondents spoke about how the collaborative programs in their counties got off the ground in response to the high number of youth who were not being adequately served. In one county, the prevalence of multi-generational trauma among the American Indian community encouraged the interviewee to start working in a different way. County staff attended a Crossover Youth training together with Tribal partners, with the primary motive of diverting

youth out of the system. The county has also implemented a circle sentencing initiative rooted in Native traditions that is another option for dually involved youth. This county also hosts family group conferencing, where social work, Tribal entities, ICWA representatives, probation (even if there is no open case), family or support people, and the youth come together to formulate a joint plan. (All parties sign releases to share information in these venues.)

Personal Relationships

In counties with smaller populations, staff in different agencies tend to know each other better, perhaps from working in closer physical proximity to one another and running into each other socially. This can foster closer working relationships and a more generous understanding of the missions of other agencies. In more populated counties, in contrast, staff from different agencies may sit in different buildings, limiting the informal interactions at the water cooler that often form the basis of collaborative working relationships. This physical distance may also reinforce the perceived sense of ideological distance between agencies.

Our interviews suggested that smaller entities, from schools to county agencies, seem to rely more on relationships to “make things work;” trust is easier to earn and grant in these settings. One probation officer that we interviewed described having more informal relationships with smaller schools, where staff were more willing to share information about youth (sometimes without proper documentation in place). Larger entities, however, rely more on policies and practices for the work to get done. With these entities, county staff may need to speak to one or more persons for a request to be processed. Several juvenile justice practitioners also noted that relationships are particularly important when attempting to retrieve information back – when a partner agency is unresponsive, getting on the phone with a known contact can speed the process.

Partner Engagement

A respondent working in school administration identified a lack of knowledge about, and of where to find, guidance around information sharing as the biggest barriers to information sharing for schools. School staff often did not know when they were able to share information, but also did not know when or who they could ask for information about a specific student. Another barrier identified within the school system is common to bureaucracies: the person receiving the question about information sharing may not be the person with the answer, and the process can stall while the answer travels back to the original inquirer.

Respondents had a variety of experiences working with schools. Some found that schools consistently misused information, oversharing when they shouldn’t. Some attributed that to the school’s desire to be helpful; others found that some schools wanted the justice system to take “problematic” students off their hands. Some schools were overly fierce protectors of students’ information, withholding when they need not. Others were open to collaborating with the justice system in students’ best interest where appropriate. School leadership who took an interest in collaborating with county agencies around juvenile justice seemed to correlate, anecdotally, with collaboratively minded social workers, in the experience of one juvenile probation officer.

One juvenile probation officer who maintained an intensive caseload described having particularly successful, collaborative relationships with an alternative school where youth on their caseload were placed. With parental consent, the school kept them in the loop around behavioral incidents and asked them to help co-create a

formal plan for the youth. The alternative school also had a mental health counselor on staff, which helped with joint case planning. That said, public schools are, like other local government institutions, often at the mercy of restricted funding. While some districts have county funding for school-based social workers, others have only a school counselor, who may be more adept in discussing options for college as opposed to delinquency.

Specialization

Less populated counties may have one person serving in multiple roles – which may be a help or a hinderance to information sharing initiatives. A Public Defender we spoke to found that Public Defenders who worked with both adults and juveniles, rather than specializing in juveniles, lacked a deep understanding of the alternatives to placement available to youth through programs like Crossover Youth. Indeed, few Public Defender's Offices have a dedicated juvenile unit. Dedicated Crossover Youth probation officers and judges were also beneficial to the program in another county. A juvenile probation officer from a large Minnesota county spoke about the many kids who “fell through the cracks” of the Crossover Youth Program when they entered with a previously-assigned probation officer who wasn't trained in the initiative, or when the cases became too complex—including, for example, wards of the state—and the youth failed the program as a result. On the other hand, specialization can slow workflows when different people must be approached for different issues; a generalist approach may make work happen more quickly.

Leadership with Varied Experiences Working with Youth

Several champions for information sharing initiatives like Crossover had worked in different youth-serving roles over their course of their career. For example, one individual was a teacher and mental health provider before working in community corrections, while another was a group therapist and detention-based counselor before becoming a judge. Holding different roles allowed them to see youth as multi-faceted, making them more likely to seek a full picture of the youth, rather than seeing them first as delinquent or a threat to public safety. They were also more inclined to approach the missions of other youth-serving agencies with understanding.

Legal Mechanisms

Some information sharing between county entities is permitted by Minnesota state statute, as described above. But formalizing new collaborations or informal collaborations that might already be in place, even when such sharing is permissible by law, is a best practice. These agreements can be broad and commit partners to working together or may outline a very detailed cross-agency practice. They can also be used to address complex issues, such as bridging philosophical divides or addressing data and information sharing conflicts (The California Endowment, 2010).

State laws are the strongest way to protect the constitutional rights of youth against self-incrimination and state data privacy laws that might be threatened during intake, assessment, and treatment, and Minnesota could do more to strengthen protections for youth in the justice system (see more under the section Mitigating Risks) (Rosado & Shah, 2007). When laws are insufficiently protective, Memoranda of Understanding and standing court orders can be established between vested stakeholders to further safeguard youth's rights (Rosado & Shah, 2007) (The California Endowment, 2010).



Chapter 8. Moving Forward in Juvenile Justice

As the previous chapters illustrate, the topic of information sharing in the juvenile justice system is complex. Federal and state laws restrict the disclosure of private information, but they do not prevent it entirely, and there are circumstances when information may be legally shared. Even when information can be legally shared, informal barriers can limit the disclosure of necessary information. There are a range of approaches to sharing information in order to coordinate case management – from informal conversations to formal collaborative programming. Perhaps most significantly, opinions on information sharing on behalf of justice-involved youth differ – some professionals strongly support information sharing initiatives, while others oppose them.

To consider these findings and identify next steps, we met twice over the course of two months with an advisory group of juvenile justice and data practices experts. With this group, we discussed the following questions: What was missing from the findings? What was the most important finding to highlight? What would the report's dissemination plan be? Which groups and individuals should have access to it? How could the guidance it contains be most useful?

Because of the amount and breadth of the information contained in the report, from the mechanics of information sharing, to the formal and informal barriers to sharing, to the potential risks of information sharing to youth of color, to mitigating those risks and creating successful collaborations, it was difficult for the group

to arrive at a single conclusion. We include below a wide range of ideas offered to move the work forward. We invite any and all interested stakeholders in Minnesota to pick up this work and carry it forward.

Juvenile Justice Agencies

- Juvenile justice practitioners need access not how only to the “how to” aspects of this report, but also to potential risks, especially for youth of color, of sharing information. Appendix A can be separated from the full report for use as a quick access guide to information sharing. But the group also recommended that the “how to” information not travel separately from the information about the potential risks to youth, even when information sharing is done within the confines of the law.
- The advisory group also felt that juvenile justice practitioners, particularly those early in their careers, would benefit from a deeper understanding of how sharing information about a youth can reverberate throughout their lives. One suggestion was a video that would humanize youth in the eyes of juvenile justice practitioners as more than just a case file. Calamari Productions (calamariproductions.com) is one organization that has specific expertise in documenting life in the juvenile system with accuracy and empathy while protecting the privacy of the youth interviewed.
- Design-centered thinking is one method that could be used to help probation officers experience the juvenile justice system through the eyes of youth or their families.
- A mandatory training about the ethics of information sharing would be required of all new recruits (in the same model of the training currently offered around sex offenders). In-services and yearly YLSI screening boosters could be other opportunities to discuss the nuances of information sharing.
- The group discussed the need to rebuild trust with communities of color, and how acknowledging past harms perpetuated by local government in communities of color might be approached.
- Counties may want to review their consent forms for legibility – forms should be easy to read (font size, spacing) and understandable (free of jargon, written at a fifth grade reading level).
- Government bodies that could disseminate this information and tailor it for juvenile justice practitioners and also for community members participating in services could include all agencies connected to juvenile justice—mental health, social services, corrections, law enforcement, the courts, child protective services, chemical health, juvenile probation officers—and affiliated bodies, like School Arbitration Review Boards and county mental health committees.
- Examine the way that “narrative” functions in the context of information sharing initiatives.

Youth and Families

- Youth and families, particularly those of color, may benefit from easily understood “know your rights” guidance about when and under what circumstances they may or may not want to share information with different juvenile justice agencies, and how sharing information may impact them in the future. The group imagined posters or brochures containing this information in churches, barber shops, or community centers.
- Parents may also benefit from other information about juvenile justice system processes, like why the Public Defender discusses the case with the youth without parents present.

Community

- Community awareness and buy-in to these initiatives is critical to their success. Community groups, including churches, community centers, youth service organizations, and other advocates may use information in this report to increase accountability of juvenile justice agencies and to ask the right questions about information sharing programs.
- Communities may want to hold deeper conversations about the impact of information sharing initiatives in their local contexts, and how it may contribute to, for example, out-of-home placements.
- The intersection of information sharing and inequitable rates of engagement with the juvenile justice system for youth of color may warrant further research or community conversations
- What might core values for information sharing initiatives look like? For example, ending the school to prison pipeline, or eliminating out-of-home placements?
- Community groups that could disseminate the report and/or tailor it for communities might include Minnesota's University Research and Outreach Center, ISAIAH, neighborhood community councils, school administrators, and youth service organizations.
- Pursue a possible legislative mandate for data practices and ethics trainings for juvenile justice practitioners, like those mandates for people working in health-related fields.
- Pursue possible legislation around strengthening protections for youth self-incrimination

State Government

- Make the full report accessible via the Department of Administration's website and seek their partnership in dissemination.
- Discuss the report with the Governor-appointed Juvenile Justice Advisory Committee, including the intersection of information sharing and disproportionate minority contact (DMC).
- Ensure that the report is made available to all counties (understanding that there is no central body governing county juvenile justice policies and practices).

References

- American Bar Association. (2018, October 11). American Bar Association. Retrieved from Family Group Conference: https://www.americanbar.org/groups/dispute_resolution/resources/DisputeResolutionProcesses/family_group_conference/
- Cauffman, E., & Grisso, T. (2005). Mental health issues among minority offenders in the juvenile justice system. *Our Children, Their Children: Confronting Racial and Ethnic Differences in American Juvenile Justice*, 390-402. (.. H.-L. (Eds.), Ed.) Chicago, IL: University of Chicago Press.
- Center for Juvenile Justice Reform. (2015). The Crossover Youth Practice Model (CYPM). Washington, D.C.: Georgetown University. Retrieved April 3, 2019, from <http://cjjr.georgetown.edu/wp-content/uploads/2015/09/CYPM-Abbreviated-Guide.pdf>
- Center for the Study of Violence, University of Colorado at Boulder. (2004). Blueprints for violence prevention. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Department of Public Safety, Office of Justice Programs. (2010). Juvenile Justice System Decision Points Study: Strategies to Improve Minnesota's Juvenile Justice Data. (C. a. Group, Compiler)
- Feld, B. (1991). Justice by geography: Urban, suburban, and rural variations in juvenile justice administration. *Journal of Criminal Law and Criminology*, 82(1), 156-210.
- Grisso, T. (2006). *Double Jeopardy: Adolescent Offenders with Mental Disorders*. Chicago, IL: University of Chicago Press.
- Haase, M., & Parpia, R. (2014). *Juvenile Justice 21: A Roadmap for the Future of Juvenile Justice in Minnesota*. St. Paul, MN: Minnesota Corrections Association.
- Heinrich, C. J. (2016). The Bite of Administrative Burden: A Theoretical and Empirical Investigation. *Journal of Public Administration Research and Theory*, 403-420. Retrieved from <http://vu-my.s3.amazonaws.com/wp-content/uploads/sites/2135/2016/06/04002620/J-Public-Adm-Res-Theory-2016-Heinrich-403-20.pdf>
- Jannetta, J., & Okeke, C. (2017). *Strategies for Reducing Criminal and Juvenile Justice Involvement*. Washington, D.C.: Urban Institute
- Jones, L., LaBlanc, L., Pfefferkorn, M., Alberg, M., & Szczepanski, C. (2019). *Improving Outcomes for Kids & Families Beyond Predictive Analytics and Data Sharing*. St. Paul, MN: IN EQUALITY/Stop the Cradle to Prison Algorithm Coalition.
- Juvenile Justice 21. (2017). *A Roadmap for the Future of Juvenile Justice in Minnesota: Mental Health and Collaboration*. St. Paul, MN: Minnesota Corrections Association.
- Juvenile Law Center and RFK National Resource Center for Juvenile Justice. (2015, January 20). *Guidelines and Tools*. Retrieved from *Models for Change: Systems Reform in Juvenile Justice*: <http://www.infosharetoolkit.org/guidelines-cat1>

Klarqvist, E. (2018) House Research: Short Subjects - Minors' Consent for Health Care, Research Department of the Minnesota House of Representatives.

Mahoney, B., Erickson, D., & Cramlet, B. B. (2016, March 11). Presentation to Juvenile Justice Advisory Committee. Stearns County Crossover Youth Initiative.

Martinson, K. (1999). Literature review on service coordination and integration. Washington, D.C.: Urban Institute.

McKay, M. M., Hibbert, R., Hoagwood, K., Rodriguez, J., Murray, L., Legerski, J., & Fernandez, D. (2004). Integrating evidence-based engagement interventions into 'real world' child mental health settings. *Brief Treatment and Crisis Intervention*, 4(2), 177-86.

Mertens, M., & Blom, M. (2015). A Better Way to Do Business: Changing Organizational Culture to Promote Integrated Service Delivery in Child Protection and Juvenile Justice Systems. RFK National Resource Center for Juvenile Justice.

Minnesota Department of Corrections. (2019). Restorative Justice. Retrieved from Minnesota Department of Corrections: <https://mn.gov/doc/victims/restorative-justice/>

Minnesota Department of Human Services. (2016). Governor's Task Force on Mental Health: Final Report. St. Paul, MN: Minnesota Department of Human Services.

Minnesota Department of Public Safety. (2017). Results First Initiative - Arrest RRI. St. Paul.

Minnesota Juvenile Justice Advisory Committee. (2010). 2009 Annual Report. St. Paul, MN: State of Minnesota Department of Public Safety.

Minnesota Juvenile Justice Advisory Committee. (2016). 2015 Annual Report. St. Paul, MN: State of Minnesota Department of Public Safety.

Minnesota Juvenile Justice Advisory Committee. (2017). 2016 Annual Report. St. Paul, MN: State of Minnesota Department of Public Safety.

Minnesota Juvenile Justice Advisory Committee. (2018). 2017 Annual Report. St. Paul, MN: State of Minnesota Department of Public Safety.

Minnesota Juvenile Justice and Mental Health Initiative. (2008). Findings and Recommendations. St. Paul: Minnesota Department of Corrections.

Models for Change (2011). Knowledge Brief: Is there a Link Between Child Welfare and Disproportionate Minority Contact in Juvenile Justice? Washington, DC: RFK National Resource Center for Juvenile Justice

National Alliance on Mental Illness of Minnesota. (2014). Juvenile Justice Work Group: Report to the Minnesota Legislature. St. Paul, MN: NAMI Minnesota.

National Research Council. (2013). *Reforming Juvenile Justice: A Developmental Approach*. (R. J. Committee on Assessing Juvenile Justice Reform, Ed., & D. o. Committee on Law and Justice, Compiler) Washington, D.C.: The National Academies Press. Retrieved April 3, 2019, from <https://www.nap.edu/read/14685/chapter/1#ii>

Pennell, J., Shapiro, C., & Spigner, C. (2011). *Safety, Fairness, Stability: Repositioning Juvenile Justice and Child Welfare to Engage Families and Communities*. Washington, D.C.: Center for Juvenile Justice Reform.

Puzzanchera, Charles. December 2018. "Juvenile Justice Statistics: National Report Series Bulletin." U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Ramsey County. (2018). *2016 Racial Disparities of Black Youth in Ramsey County, Minnesota*. St. Paul.

Rolnick, A. C. (2016). *Untangling the Web: Juvenile Justice in Indian Country*. Scholarly Works, Paper 980. Retrieved from <http://scholars.law.unlv.edu/facpub/980>

Rosada, L. M., & Shah, R. S. (2007). *Protecting Youth from Self-Incrimination when Undergoing Screening, Assessment, and Treatment within the Juvenile Justice System*. Philadelphia: Juvenile Law Center.

Scott, E., & Steinberg, L. (2010 (reprint)). *Rethinking Juvenile Justice*. Cambridge, MA: Harvard University Press.

Seigle, E., Walsh, N., & Weber, J. (2014). *Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System*. New York: Council of State Governments Justice Center.

Singer, S. (1996). *Recriminalizing Delinquency: Violent Juvenile Crime and Juvenile Justice Reform*. New York: Cambridge University Press.

Swayze, D., & Buskovich, D. (2012). *Minnesota Juvenile Diversion: A Summary of Statewide Practices and Programming*. St. Paul: Minnesota Department of Public Safety Office of Justice Programs.

Task Force on Transforming Juvenile Justice. (2009). *Charting A New Course: A Blueprint for Transforming Juvenile Justice in New York State*. Retrieved April 3, 2019, from <https://www.vera.org/publications/charting-a-new-course-a-blueprint-for-transforming-juvenile-justice-in-new-york-state>

The Sentencing Project. (2016). *Racial Disparities in Youth Commitments and Arrests*. Washington, D.C.

U. S. Department of Justice. (2009). *Disproportionate Minority Contact Technical Assistance Manual*. Washington, D.C.

United States General Accounting Office. (2003). *Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services*. Washington, D.C.: U.S. General Accounting Office.

United States House of Representatives, Committee on Government Reform. (2004). *Incarceration of Youth Who are Waiting for Community Mental Health Services in the United States*. Washington, D.C.: House of Representatives.

Wasserman, G., McReynolds, L., Schwalbe, C., Keating, J., & Jones, S. (2010). Psychiatric disorder, comorbidity, and suicidal behavior in juvenile justice youth. *Criminal Justice and Behavior*, 37(12), 1361-1376.

Wiig, J. K., & Tuell, J. A. (2013). Guidebook for Juvenile Justice & Child Welfare System Coordination and Integration, 3rd Edition. Washington, D.C.: Robert F. Kennedy Children's Action Corps.

Wiig, J., Widom, C., & Tuell, J. (2003). Understanding Child Maltreatment and Juvenile Delinquency: From Research to Effective Program, Practice, and Systemic Solutions. Washington, D.C.: Child Welfare League of America.

Appendix A. Overview of Federal and State Data Practices Laws

Note: Because local rules and practices may deviate from federal/state laws (in a stricter direction), it is a good idea to confirm with a local authority that information can be shared.

Within Juvenile Justice

Records that are created and maintained by law enforcement are classified as private data that can be released in certain circumstances, including with a court order. In jurisdictions with a juvenile diversion program, law enforcement may provide the diversion program with information concerning a youth who is being considered for participation in that program.

Minnesota law requires juvenile courts to keep and maintain records pertaining to delinquent adjudications until a person reaches the age of 28. On request, the court is permitted to provide copies of these records to law enforcement agencies, probation officers, and corrections agents if the court finds that it is in the best interest of the child or serves public safety to do so. Attorneys representing a child are granted access to any records, local social services agency files, and reports that form the basis of recommendations made to the court, provided that this information does not disclose the identity of a court-mandated reporter of child maltreatment.

Data that are created and maintained as part of the state's conditional release data system are classified as private data on individuals. These data can be accessed by criminal justice agencies, public defenders, and trial and appellate courts in the state. Data involving case planning are accessible to detention staff and corrections staff. In addition, a finalized case plan can be provided to community service providers for the purposes of monitoring and enforcing the conditions of conditional release programs.

Finally, with the exception of the child and/or parents, any person who receives access to private juvenile court or peace officer records is not permitted to release or redisclose the records unless authorized to do so by law.

Between Juvenile Justice and Education

In general, parents (or students if aged 18 or older) are granted authority to release educational data. Consent is typically required for schools to disclose information to the juvenile justice systems.

Exceptions include (*note: not a complete list of exceptions*)

- In response to a court order
- In a health or safety emergency
- If information about the behavior of a student who poses a risk of harm is necessary to protect the health/safety of students or others
- Prior to adjudication, when the following conditions are met: disclosure is made to state or local juvenile justice officials; disclosure pertains to the ability of these officials to effectively service a student prior to adjudication; and the officials certify in writing that those receiving the information will not disclose it to a third party outside of the juvenile justice agency.

Between Juvenile Justice and Education, continued

In addition, schools must release basic information about a student to the juvenile justice system upon request. Schools are permitted to share the existence of certain data, such as use of a controlled substance and assaultive or threatening conduct.

Finally, schools are required to share:

- Suspected maltreatment of a child
- If a school/medical staff treat a student for an injury resulting from a firearm or other dangerous weapon
- If a student possesses an unlawful firearm
- If the records of a student reported as missing are requested

Law enforcement and juvenile probation officers are also required to share certain information with schools.

Between Juvenile Justice and the Welfare System

Welfare data includes data that are collected, maintained, or disseminated as part of an individual's participation in programs that are part of the "welfare system," such as programs within social service agencies, county welfare agencies, and county public health agencies. Minnesota law defines welfare data as private data that is not to be disclosed except in certain circumstances. These circumstances include (*note: this is not a complete list*):

- Subject to a court order
- To the appropriate parties in connection with an emergency, if the information is necessary to protect the health and safety of the individual or other individuals
- To county correctional agencies to coordinate services and diversion programs. This information is limited to name, client demographics, program, case status, and county worker information.

In addition, limited information can be disclosed to law enforcement in certain circumstances, such as when law enforcement officers are investigating an individual for a felony-level offense.

Health information, including substance abuse treatment information, that is collected, maintained, or disseminated by the welfare system is subject to stricter disclosure rules (see below). Mental health data within the welfare system is subject to its own set of rules and may be released pursuant to a court order or with the consent of the client, provided that the consent specifies the purpose and use for which the case manager may disclose the information. Such data must also be disclosed to law enforcement if the individual is currently involved in an emergency interaction and the information is necessary to protect the health and safety of the individual or others

Finally, if a local social services agency requests information about a child who may be delinquent or may be engaged in criminal acts, law enforcement may share information in order to promote the best interests of the child.

Between Juvenile Justice and Health

Certain types of health organizations including health plans, health care providers, and hospitals (called “covered health care entities”), are subject to federal restrictions on the disclosure of individual protected health information (PHI). In Minnesota, written consent is required to for a covered health care entity to share PHI. The ability to grant consent to a minor’s PHI rests with a parent or guardian, except in situations where a minor is able to consent to specific health services and the disclosure of information pertains to information about those services.

Together, the federal and state laws identify certain circumstances when PHI may be disclosed without consent, including (note – this is not a complete list):

- In response to a threat to health or safety
- In a situation of abuse, neglect, or domestic violence
- To law enforcement officials, in specific situations
- In response to a court order or subpoena
- To an individual’s other treatment providers
- To a correctional institution or law enforcement official with custody of a youth if the information is necessary to provide healthcare; ensure the health and safety of the youth or others; or to law enforcement at the correctional facility.

In addition, under Minnesota law, a person or provider that receives health records may not redisclose those records without consent, specific statutory or regulatory authority, or court order.

Between Juvenile Justice and Chemical Health

Federal law dictates that written consent is required for a substance use treatment program to disclose personally identifiable information. Because a minor can consent to treatment without parental consent in Minnesota, a minor’s consent is necessary to disclose treatment records.

Information may be disclosed to relevant juvenile justice system officials under certain conditions. Federal laws regarding disclosure do not apply in the following circumstances (*note: this is not a complete list*):

- Communication between staff in the same treatment program, or between a treatment program and entity with direct administrative control over that program
- Disclosure to law enforcement in situations where a patient has threatened or committed a crime at a substance abuse treatment program or against personnel
- In the context of reporting suspected child abuse

In addition, disclosure without consent is permitted:

- To medical personnel in the case of medical emergency
- In response to a court order, in limited circumstances

Appendix B. Protecting Youth from Self-Incrimination in Minnesota

From Rosada & Shah (2007), Protecting Youth from Self-Incrimination when Undergoing Screening, Assessment, and Treatment within the Juvenile Justice System.

State constitutional provisions on the right against self-incrimination generally

Minn. Const., Art. I, § 7 (No person shall be held to answer for a criminal offense without due process of law, nor be compelled in any criminal case to be a witness against himself).

State juvenile code provisions on the right against self-incrimination generally

Minn. Stat. § 611.11 (The defendant in the trial of an indictment, complaint, or other criminal proceeding shall, at the defendant's own request and not otherwise, be allowed to testify; but failure to testify shall not create any presumption against the defendant, nor shall it be alluded to by the prosecuting attorney or by the court).

Statements made during intake/preliminary interview to court or probation officers inadmissible

none found

Statements made during intake to court or probation officers inadmissible unless defendant advised and made valid waiver of right against self-incrimination

none found

Statements made to detention staff inadmissible without valid waiver of rights

none found

Statements made during court-ordered evaluations inadmissible as to guilt

Minn. R. Crim. P. 20.02; Minn. R. Juv. Del. P. 13.04 (unless defendant has made mental health issue in case) (also inadmissible at sentencing).

Compelled mental health evaluations do not violate right against self-incrimination as long as evaluation not used to determine guilt

none found

Statements in court-ordered evaluations inadmissible unless defendant advised and made valid waiver of right against self-incrimination

none found

Rosada & Shah (2007), continued

All compelled evaluations violate right against self-incrimination	none found
Statements in court-ordered evaluations only admissible for purpose ordered	none found
Statements in court-ordered evaluations to determine competency inadmissible as to guilt	none found
Statements in court-ordered evaluations inadmissible as to amenability to treatment	none found
Statements in court-ordered treatment inadmissible as to guilt	none found
Admission of statements in compelled treatment violates right against self-incrimination	none found
Revocation of probation/penalizing for failure to make admissions in court-ordered treatment violates rights against self-incrimination	<i>State v. Kaquatosh</i> , 600 N.W.2d 153 (Minn. App. 1999) (finding it was a violation of a probationer's Fifth Amendment right against self-incrimination to revoke his probation for failing to complete a court-ordered sex-offender treatment program where the failure was due to his refusal to admit facts underlying a conviction from which he is appealing).
Statements in court-ordered attempts to restore competency inadmissible as to guilt	none found

Appendix C. Examples of Legal Mechanisms for Information Sharing

Example 1: Standing Order for Hennepin County's Crossover Youth Pilot Project

FILED

STATE OF MINNESOTA 2012 JUL 26 AM 10:34 DISTRICT COURT – JUVENILE DIVISION
COUNTY OF HENNEPIN BY HENNEPIN CO. DISTRICT COURT ADMINISTRATOR DEPUTY FOURTH JUDICIAL DISTRICT

FILE CLEARANCE DATA ACCESS FOR
AGENCIES PARTICIPATING IN
HENNEPIN COUNTY'S CROSSOVER YOUTH
PILOT PROJECT

ORDER

WHEREAS:

1. For purposes of this Order, a "crossover youth" is defined as a child who moves between or is simultaneously involved in the juvenile justice and social services systems.
2. Hennepin County has a significant number of children that are simultaneously involved in both the juvenile justice and social service systems and meet the definition of a crossover youth.
3. Agencies working with these children have long recognized that they pose special challenges and agencies need to work collaboratively to improve the outcomes for dually involved children.
4. In 2011, Hennepin County sent a group of delegates from Hennepin County's social services and juvenile justice departments to Georgetown University to learn about the Crossover Youth Practice Model developed by Casey Family Programs and the Center for Juvenile Justice Reform.
5. Hennepin County was selected as a model site for implementation of the Crossover Youth Practice Model. The Hennepin County Crossover Youth Pilot Program is a collaboration between the district court bench, the Human Services and Public Health Department, the Department of Community Corrections and Rehabilitation, the Hennepin County Attorney's Office, the Hennepin County Public Defender's Office, schools and other community agencies that serve crossover youth.

Hennepin County Standing Order, continued

6. The goal of Hennepin County's Crossover Youth Pilot Project is to coordinate case management services and improve family engagement for crossover youth. The pilot will use targeted interventions designed to promote safe and stable environments for children, reduce unnecessary out-of-home placements, and keep children from penetrating deeper into the juvenile delinquency system.
7. Identifying youth at the point that they crossover from the social services system into the delinquency system is a key component to the Crossover Youth Practice Model. Another key component of the model is information sharing between agencies with clients in common.
8. The Hennepin County Attorney's Office – Juvenile Prosecution Division is responsible for reviewing all delinquency offenses committed by youth in Hennepin County. As the first point of contact, the Hennepin County Attorney's Office is in the best position to identify youth as they crossover from the social services system into the delinquency system. In Hennepin County's Crossover Youth Pilot Project, the Hennepin County Attorney's Office – Juvenile Prosecution Division is the entity responsible for identifying a child as a potential crossover youth.
9. The Minnesota Department of Human Services maintains a Shared Master Index that contains Person Detail information. The Shared Master Index is used to manage client identity and can also be used to identify and link shared clients across various programs and systems.
10. Minnesota Statute § 13.468 permits some data sharing between county agencies for purposes of case coordination and management. The statute provides:

County welfare, human services, corrections, public health, and veterans service units within a county may inform each other as to whether an individual or family currently is being served by the county unit, without the consent of the subject of the data. Data that may be shared are limited to the following: the name, telephone number, and last known address of the data subject; and the identification and contact information regarding personnel of the county unit responsible for working with the individual or family. If further information is necessary for the county unit to carry out its duties, each county unit may share additional data if the unit is authorized by state statute or federal law to do so or the individual gives written, informed consent.
11. The Person Detail information in Shared Master Index provides access to a person's date of birth and social security number. This data is not governed by Minnesota

Hennepin County Standing Order, continued

Statute §13.468. This additional information is, however, critical to identity management.

12. The Social Services Information System (SSIS) Case Detail information in the Shared Master Index provides information on the type of social services case open in the Human Services and Public Health Department, the name of the worker, the worker contact information, and, depending on how the case is structured, other case participants. The type of social services case open in the Human Services and Public Health Department and the other case participants is data that is not governed by Minnesota Statute §13.468. This additional information is, however, critical to case coordination.
13. Access to Person Detail information and SSIS Case Detail information from the Shared Master Index for Hennepin County's Department of Community Corrections and Rehabilitation would assist the Department in managing client identity and more effectively serving its clients through collaboration with the Hennepin County's Human Services and Public Health Department.
14. Sharing Personal Detail information and SSIS Case Detail information that is contained in the Shared Master Index is essential for the Hennepin County Attorney's Office – Juvenile Prosecution Division and the Hennepin County Department of Community Corrections and Rehabilitation to carry out their duties in Hennepin County's Crossover Youth Pilot Project.
15. The Department of Community Corrections and Rehabilitation has identified specific probation officers to provide services to the crossover youth population. Access to Human Services and Public Health Department case management data in SSIS -- including, but not limited to, case notes and placement information -- is necessary for the probation officers to provide effective case management and will facilitate the coordination of services between the two departments.
16. In Hennepin County, access to data in the Shared Master Index occurs through an interface with the Human Services and Public Health Department Enterprise Communication Framework.
17. The Court finds that the benefits to the individuals whose minimal private and confidential data will be shared for the purposes of identity management, linking clients across programs, and effective case management, as well as the benefit to the juvenile delinquency and juvenile protection systems outweighs any harm to the confidentiality interests of those who are the subject of the data.

Hennepin County Standing Order, continued

IT IS HEREBY ORDERED:

1. The Minnesota Department of Human Services shall grant the Hennepin County Attorney's Office – Juvenile Prosecution Division access to Person Detail information from the Shared Master Index maintained by the Department. This data is accessible through the Human Services and Public Health Department Enterprise Communication Framework. Any data accessed pursuant to this Order shall be used solely for the purpose of identifying children that may be dually involved in the social services and juvenile justice systems.
2. The Minnesota Department of Human Services shall grant the Hennepin County Department of Community Corrections and Rehabilitation access to Person Detail information from the Shared Master Index maintained by the Department. This data is accessible through the Human Services and Public Health Department Enterprise Communication Framework. Any data accessed pursuant to this Order shall be used solely for the purpose of providing case management services for children that may be dually involved in the social services and juvenile justice systems.
3. The Hennepin County Human Services and Public Health Department shall grant the Hennepin County Attorney's Office – Juvenile Prosecution Division access to the SSIS Case Detail information from the Shared Master Index maintained by the Department. This data is accessible through the Human Services and Public Health Department Enterprise Communication Framework. Any data accessed pursuant to this Order shall be used solely for the purpose of identifying children that may be dually involved in the social services and juvenile justice systems.
4. The Hennepin County Human Services and Public Health Department shall grant the Hennepin County Department of Community Corrections and Rehabilitation access to the SSIS Case Detail information from the Shared Master Index maintained by the Department. This data is accessible through the Human Services and Public Health Department Enterprise Communication Framework. Any data accessed pursuant to this Order shall be used solely for the purpose of identifying children that may be dually involved in the social services and juvenile justice systems.

BY THE COURT:


Judge Kathryn Quaintance
Presiding Judge – Juvenile Court

Dated: 7/24/12

Example 2: Stearns County Data Sharing Agreement

STEARNS COUNTY CROSSOVER YOUTH INITIATIVE CASE CONSULTATION DATA SHARING AGREEMENT

In an effort to better serve families and children, we recognize the benefits of associated agencies cooperating and collaborating on a multi-disciplinary basis to further the delivery of needed services to children. Hence, as a member of the Stearns County Crossover Youth Initiative, I will voluntarily serve and participate in Crossover Youth Initiative case consultation activities, sharing my professional expertise with the Stearns County Department of Human Services and other members of the Initiative.

I understand I may have access to not-public data, as such term is defined by Minn.Stat. §13.02, subd 8a. I further understand that for purposes of case consultation hereunder, all such data shall be deemed confidential and shall not be disclosed except to the extent necessary to perform case consultation with the Crossover Youth Initiative.

I acknowledge I am subject to all applicable state and federal rules and laws related to data privacy, including but not limited to, the Minnesota Data Practices Act (Minn.Stat. §§13.01 to 13.90), and Minn.Stat. §626.558.

I understand that any person who willfully violates the provisions of the Minnesota Data Practices Act or any rules adopted thereunder is guilty of a misdemeanor. Willful violation of the Act by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

Signature

Stearns County Human Services Administrator

Agency

Date

Agency Director (if appropriate)

Date

Example 3: Memorandum of Understanding (MOU) between Rice County Agencies

MEMORANDUM OF UNDERSTANDING (MOU)

between

Faribault Diversity Coalition (FDC)

and

Faribault Public Schools (FPS)

and

Faribault Youth Investment (FYI)

I. PURPOSE & SCOPE

The purpose of this MOU is to clearly identify the roles and responsibilities of each party as they relate to the "Crossover Model" grant proposal that is herein submitted to the Office of Justice Programs. In particular, this MOU is intended to develop local strategies that provide direct services to youth and their families to prevent or divert involvement of youth in the juvenile justice system and to eliminate or to minimize inherent disproportionate minority contact (DMC) by using the following strategies:

- 1) Regular monthly convenings of key Rice Co. agencies as the initiation process of creating a Rice County Crossover Youth Practices Model begins.
- 2) Reducing school absences, truancy and disciplinary referrals of crossover and at-risk youth at Faribault Middle School.
- 3) Providing opportunities during the school day for middle- and high school-aged youth who seek participation in strength-based youth programming as a diversion option under the Juvenile Detention Alternatives Initiative (JDAI).

II. Faribault Public Schools RESPONSIBILITIES UNDER THIS MOU

FPS shall undertake the following activities:

- Provide access to student data as a component of evaluation
- Provide access to crossover youth and at-risk youth during FMS Academic and Enrichment Seminars and in cultural enrichment activities at Faribault High School

III. Faribault Diversity Coalition RESPONSIBILITIES UNDER THIS MOU

The FDC shall undertake the following activities:

- Provide high-quality activities at FMS that promote positive interactions between youth of all cultures, mindfulness and behavior self-management, school connectedness and leisure time skills.
- Collecting data for evaluation purposes.
- Provide staff supervision, training and support for all grant related activities.
- Serve as the fiscal host for this grant
- Submit grant documentation and reports that are accurate and submitted on time.

IV. Faribault Youth Investment RESPONSIBILITIES UNDER THIS MOU

- Convene Rice Co. stakeholders as they address policies, procedures and protocols that will enable creation of a CYPM.
- Administer the Developmental Asset Profile and provide results that will be included in grant evaluations.

Appendix D. Examples of Collaborative Programs in Minnesota

Circle Sentencing (Beltrami County) - Circle sentencing is rooted in Native traditions and is another option for dually involved youth. In this method, the community joins the victim and the youth to hear all voices and to decide how the person responsible can make things right. (Read more here: <https://www.iirp.edu/news/circle-sentencing-part-of-the-restorative-justice-continuum>)

Crossover Youth Program Model (CYPM) (Beltrami, Olmsted, Rice, Stearns) : Minnesota's Juvenile Justice Advisory Committee uses a broad definition for the Crossover Youth Program Model that includes the following characteristics: participation from a variety of key stakeholders, including but not limited to juvenile justice, child welfare, education, and mental health; a communications strategy that ensures information is easily shared between system stakeholders, youth, and family; identification of crossover youth as early in the process as possible; a joint assessment and case planning approach; the recognition that family or caregiver involvement increases the likelihood of program success; and staff supporting the family and youth are "on the same page" (Minnesota Juvenile Justice Advisory Committee, 2017).

Family Group Conferencing (New Zealand Model) (Beltrami) - In family group conferencing, also called the New Zealand model, social work, Tribal entities, ICWA representatives, probation (even if there is no open case), family or support people, and the youth come together to formulate a joint plan. (All parties sign releases to share information in these venues.) (Read more here: <https://www.iirp.edu/defining-restorative/5-3-family-group-conference-fgc-or-family-group-decision-making-fgdm>)

Peer Jury Model (Hennepin) - In a peer jury model, students are trained by a lawyer and a judge to review cases referred to them by teachers or other entities within the school. With student and parental consent, a social worker (or other trained adult) presents the case to the students, who discuss the case, ask questions, and decide on consequences. The process creates an alternative to suspension. (Read more: https://www.globalyouthjustice.org/our-work/youth-teen-student-peer-court/_)

Rice County's Community and Justice Council - The Community and Justice Council (CJC) brings together representatives from Court Administration, the County Attorney's Office, the bench, social and health services, local policy, the Sheriff's Department, city prosecutors, the Public Defender's Office, schools, community-based organizations, and other stakeholders with the goal of working more collaboratively and sharing information. In 2016 and 2017, Rice County's Community and Justice Council hosted the National Institute of Corrections (NIC) for a local system assessment. In June 2018, the Federal Office of Justice Program's Diagnostic Center followed up in Rice County with technical assistance to implement NIC's recommendations.

As one of the outcomes, Rice County's CJC subcommittee on data sharing held its first meetings in mid-2018. The subcommittee is working on other ways to share information, including aligning with the Crossover Youth committee.

School Attendance Review Board - Rice County Public Schools recently implemented the School Attendance Review Board (SARB) model, to better understand and minimize truancy in the school district. The SARB includes representatives from the schools, community corrections, service providers, and other key stakeholders. SARBs are established in Minnesota Statute 260A.05.

Washington County - Recommendations from RFK - A Systems Review Team from the Robert F. Kennedy National Resource Center for Juvenile Justice recently finished a comprehensive review of Washington County's juvenile justice-related policies and practices and its probationary practices in particular. Invited by leadership, the team was tasked with helping the multiple agencies who serve youth (including but not limited to the County Attorney's Office, Court Administration, Human Services, Child Welfare [including Mental Health and Truancy], the Juvenile Public Defender, principals, School Resource Officers, and Probation Officers) work more collaboratively. The greatest focus for Washington County's leadership was on high-need, low-risk, dual status youth. They recognized a systemic failure on the county's part, and together with the Mental Health and Community Services departments, Juvenile Justice wanted to do more to support these youth. While the 17 recommendations have not been publicly released, several of the recommendations have to do with screening more youth out of probation on the front end, including to diversion and dismissal or after a briefer probationary period. This would require access to more information about the youth earlier in the process. Having access to more information would in theory benefit both the staff and the youth, allowing all players to get at the root causes of delinquency and be more purposeful with their recommendations.

Youth Restorative Justice - Restorative justice is a process that allows both victims and offenders an opportunity to hear one another in a safe setting. It seeks to "connect offenders with the harm of their actions and helps them to take responsibility for harm," rather than focusing on punishment and broken laws (Minnesota Department of Corrections, 2019). One respondent found the restorative justice process in Hennepin County meaningful for both the delinquent youth and the victim: it allowed all parties to communicate how they felt. Another proponent of restorative justice programs in the county felt that they "give youth an opportunity to skip the label - to admit to a mistake, but not be labeled a criminal." (Read more here: <https://jjjustice.org/resources/restorative-justice/>)

Appendix E. Sample Consent Forms

Example 1: Sample Consent to Release Information (in RFK Models for Change)

Authorization — Consent to Release Information

This is a(n) <input type="checkbox"/> Initial Request <input type="checkbox"/> Modified Request <input type="checkbox"/> Revocation/Withdrawal of Prior Request Date of Prior Request (if applicable): / /				
Agency Requesting Information:				
Agency Name		Contact Name/Title		
Mailing Address				
City		State	Zip	
Email	Phone	Fax	Date	
Client Information:				
Last Name		First Name	MI	Date of Birth
Physical Address				
City		State	Zip	Email:
Permanent Address (if different than physical address)				
City		State	Zip	Email:
Type of Identifier: <input type="checkbox"/> SSN <input type="checkbox"/> School ID <input type="checkbox"/> DL <input type="checkbox"/> State ID		Identifier #: Role:		
<input type="checkbox"/> Child Welfare Case # <input type="checkbox"/> Case Report # <input type="checkbox"/> JCM <input type="checkbox"/> Passport				
Consenter/Person Authorizing Consent (if person above is a minor)				
Last Name		First Name	MI	Date of Birth
Physical Address				
City		State	Zip	Email:
Permanent Address (if different than physical address)				
City		State	Zip	Email:
Type of Identifier: <input type="checkbox"/> SSN <input type="checkbox"/> School ID <input type="checkbox"/> DL <input type="checkbox"/> State ID		Identifier #: Role:		
<input type="checkbox"/> Child Welfare Case # <input type="checkbox"/> Case Report # <input type="checkbox"/> JCM <input type="checkbox"/> Passport				
To Release Information From:				
Agency Name		Name/Title		
Mailing Address				
City		State	Zip	Email:
To Release Information To:				
Agency Name		Name/Title		
Mailing Address				
City		State	Zip	Email:
For the Purpose of:				
<input type="checkbox"/> Adjudication	<input type="checkbox"/> Coordination of Services	<input type="checkbox"/> Insurance (Health/Life)	<input type="checkbox"/> Placement	<input type="checkbox"/> Treatment
<input type="checkbox"/> Assessment	<input type="checkbox"/> Intake	<input type="checkbox"/> Interdisciplinary Team Staffing	<input type="checkbox"/> Pretrial	
<input type="checkbox"/> Other: _____				
Type of Records/Information Requested:				
Education <input type="checkbox"/> School Grades <input type="checkbox"/> School Attendance Records <input type="checkbox"/> School Behavior Reports <input type="checkbox"/> IEP's/504 <input type="checkbox"/> Other: _____	Justice <input type="checkbox"/> Probation History <input type="checkbox"/> Programs <input type="checkbox"/> Pre-Trial Services <input type="checkbox"/> Other Court Records <input type="checkbox"/> Correction <input type="checkbox"/> Parole <input type="checkbox"/> Detention (if juvenile) <input type="checkbox"/> Other: _____	Human Service Records <input type="checkbox"/> Human Service Records <input type="checkbox"/> Child Welfare History <input type="checkbox"/> Other: _____	Benefit Programs _____ _____ Other _____ _____ _____	

Preparer's Initials	Consenter's Initials
----------------------------	-----------------------------

page 1/2

Substance Abuse/Medical/Mental Health Records Request:

[Check box for records being requested. Client must initial **after** each category that is applicable to this request]

- | | |
|---|---|
| <input type="checkbox"/> Name/Personal Identifying Information (PII): _____ | <input type="checkbox"/> Summaries of alcohol/drug and mental health assessment results/history: _____ |
| <input type="checkbox"/> Patient Status in treatment: _____ | <input type="checkbox"/> Summaries of mental health service plans, progress and compliance: _____ |
| <input type="checkbox"/> Outpatient <input type="checkbox"/> Inpatient | <input type="checkbox"/> Attendance in alcohol/drug treatment and mental discharge plan(s) for alcohol/drug treatment and mental health services, discharge status: _____ |
| <input type="checkbox"/> Evaluations (initial and subsequent): _____ | <input type="checkbox"/> Other: _____ Code: _____ |
| <input type="checkbox"/> Mental Health Intake | Diagnosis: _____ Code: _____ |
| <input type="checkbox"/> Mental Health Screen | |

Date of Service/Injury/Court Event: _____**Date of Diagnosis Event or Condition:** _____**Expiration of Consent:** ☐ Expiration of Event ☐ One Year from Date of Event ☐ Date: (MM/DD/YYYY) _____**How is this information being released?** ☐ Fax ☐ Email ☐ Telephone ☐ In Person ☐ Other _____**This information is being used for the purpose of:** _____

Signature of person authorizing consent: Date: / /

Type or print name: _____

Signature of youth: Date: / /

Type or print name: _____

☐ By my signature, I consent to the release of information contained on this form for use by the requesting agency(ies), and I understand that any agency or individual using the confidential information or records obtained will take all necessary steps to protect the confidentiality of the above named juvenile/child's identity. I acknowledge that I have been informed of my rights to refuse to sign this form, and any conditions related to my consent or refusal, and that I am entitled to receive a copy of the signed form.

☐ Consenter declined release of information. _____ [staff initial] [Copy Provided to Client]
Date Declined: (MM/DD/YYYY) _____

☐ **Liability/Hold Harmless Statement: (Check Only if Applicable to Request)**
I understand that information disclosed to non-HIPAA entities in accordance with this release/authorization may be re-disclosed by the recipient and, in such cases, the information may no longer be protected by the HIPAA Privacy Regulations.

Mandatory Disclosure Limitation – Substance Abuse 42 CFR Part 2:

When programs operating under Part 2 disclose information pursuant to a consent form, the following statement is required regarding re-disclosure. 42 CFR §2.32: This information has been disclosed to you from records whose confidentiality is protected by Federal law as well as the Health Insurance Portability and Accountability Act (HIPAA). Federal Regulations (42 CFR Part 2) prohibit you from **making any further disclosure of it without the specific written consent of person to whom it pertains**, or as otherwise permitted by such regulations: a general authorization for the release of medical or other information is NOT sufficient for this purpose.

Notice of Law: You must be advised of the federal laws and regulations which protect the records contained in this consent and provided with a notice of the (AGENCY)'s privacy practices and bill of rights" under the Federal Privacy Rule which relate to the requested records. Constitutional Right to Privacy 45 CFR 164.502(g)(3)(i) for Notice to Parent

Confidentiality Notice for Electronic Transmittal: This release, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential information. If you have received this communication in error, please immediately notify the sender. In addition, if you have received this in error, do not review, distribute, or copy the document or attachments.

Consent Expiration: This authorization expires no later than (ONE YEAR) or (Number of DAYS/ DATE) from the date of signature, or upon the completion services defined, whichever is less. Length of time consent is valid can be less than a year, as defined by program or provider, or set by length of program/ referral, period of time that records are utilized for specified consent purpose. (CFR §164.502(b)). Educational Programs must keep a copy of each signed form for six (6) years from its expiration date, FERPA 34 CFR 99.32. See agency specific time frames for record retention.

Consent Period: This release shall remain in effect until such time as I provide the (AGENCY) with a written or oral notification to revoke. Exceptions do not cover data that was previously released for specific treatment or referral.

Non-consensual Release of Confidential Treatment Data: Under Federal Confidentiality Regulations, no information about the juvenile's participation in treatment can be disclosed without written consent except in the case of medical emergency, child abuse or Court Order.

Notice To Receiving AGENCY: This information has been disclosed from records whose confidentiality is protected by Federal Law. Federal Law prohibits you from making further disclosure of this information without the specific written consent of the person to whom it pertains. (See 42 CFR § 2.4. A violation of Section 290dd-2 or the accompanying regulations is a crime, for which the violator can be fined up to \$500 for a first offense and up to \$5,000 for subsequent offenses. Also, the program where the violation occurred can lose its federal funding, and both the program and violator can lose their licenses under state law.)

Redisclosure Notice to Receiving Agencies: **THIS INFORMATION HAS BEEN DISCLOSED TO YOU FROM RECORDS WHOSE CONFIDENTIALITY IS PROTECTED BY FEDERAL LAW. FEDERAL LAW PROHIBITS YOU FROM MAKING FURTHER DISCLOSURE OF THIS INFORMATION WITHOUT THE SPECIFIC WRITTEN CONSENT OF THE PERSON TO WHOM IT PERTAINS. IF APPLICABLE, A MINIMUM NECESSARY DETERMINATION HAS BEEN APPLIED TO THIS RELEASE/ AUTHORIZATION. IF YOU HAVE QUESTIONS CONCERNING THIS RELEASE PLEASE CALL (PROVIDER AGENCY PHONE #) OR PLEASE SEND INFORMATION TO: (PROVIDER AGENCY NAME AND ADDRESS AND FAX)**

Revocation Limitation: This release/authorization may be revoked at any time by written notice to AGENCY, except to the extent that action has already been taken to comply with it. Without such revocation, this release/authorization will expire on (specific date) or if left blank, one year from the date signed, or if included as part of a Court Order or condition of probation, upon the terms specified. Consenter may revoke consent in writing by contacting the releasing agency. This revocation will be recorded in the AGENCY record. The Privacy Rule requires written revocation of an authorization to release HIPAA information (45 CFR §164.508(b)(5)). Both Part 2 and the Privacy Rule allow the program to make a disclosure for services already rendered in reliance on a signed consent or authorization form. See 42 CFR §2.31(a)(8) and 45 CFR §164.508(b)(5)(i).

Treatment Data Disclosure Limitation: Under Federal Confidentiality Regulations, no information about NAMED child's participation in treatment can be disclosed without written consent except in the case of medical emergency, child abuse or Court Order. A substance abuse treatment program is defined as an individual or entity that provides alcohol or drug abuse diagnosis, treatment or referral. In this document, the term "program" includes both individual substance abuse providers and substance abuse provider organizations. Written/Verbal Consent: This consent must be in writing to be valid, unless consent is for Substance Abuse Treatment – when verbal consent is acceptable. Verbal consent may also be accepted in specific emergency situations. See participating agency's policy and statutes.

Parental/ Guardian Right to Inspect/ access Medical/ MH records: When child covered by this consent is under 18, the parent/ guardian has the right to view, and/or have received photocopies of the medical records of AGENCY/MH FACILITY NAME inpatient treatment and amend the named minor child's medical record, except in abuse and neglect situations.

**Preparer's
Initials** _____**Consenter's
Initials** _____

page 2/2

Example 2: Sample Consent Form for Protected Health Information (in RFK Models for Change)

Authorization for Release of Protected Health Information (PHI) to Department of Enterprise Services, Office of Risk Management

Name:
(Last, First, Middle Initial or Middle Name)

Date of Birth: Month Day Year

I hereby authorize disclosure of my protected health information to the Department of Enterprise Services, Office of Risk Management (Risk Management) for purposes of processing my claim for damages filed with the state of Washington.

I understand that by signing this document, I authorize the release of the following information:

Complete medical record for all services, including history and physical exam; progress notes; x-ray reports; inpatient admissions; operative notes; physical or other therapy; laboratory and other test reports; physician and physician assistant orders; nursing notes; and all other records and references designated by the provider as part of its medical record.

HIV Test Results and medical information related to HIV testing or treatment

Psychiatric, mental and behavioral health records, including treatment notes, assessments, testing documents and results, and medical records related to mental health diagnosis and treatment

Alcohol assessment, testing, referral or treatment records

All other chemical dependency assessment or treatment records

Pharmacy prescriptions and reports

All letters and memos received or sent, including electronic mail, referencing my treatment, compliance with treatment and any other subject related to my medical treatment

Information related to alleged sexual assault or sexually transmitted disease, including test results

Urgent care, outpatient or other clinic visit information

Gynecological and/or obstetrical information

All client records generated for or by governmental programs of which I am a client. Identify the program(s) and agency: .

Financial records related to my care and treatment

I understand the following: (PLEASE READ AND INITIAL ALL STATEMENTS)

- ☐ I understand that my records are protected under HIPAA/PHI regulations (federal law) and the Washington State Health Care Information Act (RCW 70.02).
Initial
- ☐ I understand that my health information may be subject to re-disclosure by Risk Management and not protected for purposes of evaluating and investigating the claim I have filed with the state of Washington.
Initial
- ☐ I understand that the specific information to be disclosed in my medical record may include information regarding alcohol, drug or other controlled substance use, counseling referrals and/or a history of testing or treatment of acquired immune deficiency syndrome.
Initial
- ☐ I understand that I may revoke this authorization at any time by notifying Risk Management in writing, and that the revocation will be effective as of the date Risk Management receives it. Any records obtained pursuant to this Authorization for Release of PHI prior to the revocation will be deemed authorized by me for release.
Initial
- ☐ I understand that this Authorization for Release will expire 90 days from the date I sign it. I can also authorize a different time frame for this release to be valid. This permission is valid until my claim is resolved or closed by RMD.
Initial

A Photostat of this Authorization carries the same authority as the original for purposes of releasing my records to Risk Management.

Signature of Authorizing Individual:

Date of Signature:

Telephone number:

Witness (where patient is over 13 and signing the release):

Where the signer is not the subject of the records:

I am authorized to sign this because I am the (attach proof of authority):

- ☐ Parent of minor
☐ Legal Guardian
☐ Personal Representative
☐ Other

To the Provider or Records Custodian:

Please send legible copies of all records to:

Department of Enterprise Services
Office of Risk Management
1500 Jefferson Street SE
Olympia, WA 98504-1466
Fax: 360-407-8022
Email: WashingtonStateTortClaimE-Filing@des.wa.gov

Endnotes

¹ In addition, different laws shape information sharing when a youth is moving through the judicial system versus if they have been diverted or after they exit the system. There are also laws that govern how the two branches communicate.

² Youth who are tried as adults and youth with traffic violations are subject to a different set of rules.

³ MINN. RULES 1205.0400, SUBP. 2

⁴ MINN. STAT. § 13.04, SUBD. 2.

⁵ See the Minnesota Department of Administration's Data Practices website for more information: <https://mn.gov/admin/data-practices/data/warnings/tennessen/>.

⁶ Minnesota Statute 260B.171 contains laws related to the records about youth who are involved in the juvenile justice system.

⁷ By statute, all Minnesota counties have diversion programs.

⁸ MINN. STAT. § 260B.171, SUBD. 5(f).

⁹ MINN. STAT. § 121A.28.

¹⁰ MINN. STAT. § 260B.171, SUBD. 5(e).

¹¹ MINN. STAT. § 260B.171, SUBD. 5(g).

¹² MINN. STAT. § 260B.171, SUBD. 5(a).

¹³ MINN. STAT. § 260B.171, SUBD. 1(a).

¹⁴ MINN. STAT. § 241.065, SUBD. 2 (b).

¹⁵ "Criminal justice agencies" is defined as "all state and local prosecution authorities, all state and local law enforcement agencies, the Sentencing Guidelines Commission, the Bureau of Criminal Apprehension, the Department of Corrections, and all probation officers who are not part of the judiciary." MINN. STAT. 13.02, SUBD. 3a.

¹⁶ MINN. STAT. § 241.065, SUB 2.

¹⁷ MINN. STAT. § 260B.171, SUBD. 3.

¹⁸ MINN. STAT. § 260B.171, SUBD. 3(b).

¹⁹ MINN. STAT. § 260B.171, SUBD. 6.

²⁰ MINN. STAT. § 260B.171, SUBD. 8.

²¹ This definition does not include records of instructional personnel that are only available to that personnel (notes, for example), nor does it include records of a law enforcement unit within an educational institution that are maintained exclusively for law enforcement purposes (see MINN. STAT. §13.32, SUBD. 1(a)). The statute does not apply to private schools unless the school is under contract with a government entity (see MINN. STAT. 13.32, SUBD. 3).

²² The "juvenile justice system" is defined as criminal justice agencies and the judiciary when involved in juvenile justice activities (MINN. STAT. §13.32, SUBD. 1(b)).

²³ MINN. STAT. §13.32, SUBD. 3(b).

²⁴ MINN. STAT. §13.32, SUBD. 3(d).

²⁵ MINN. STAT. §13.32, SUBD. 3(l) (2018).

²⁶ MINN. STAT. §626.556, SUBD. 3. Schools may also report maltreatment to social service agencies.

²⁷ MINN. STAT. §626.52, SUBD. 2 and 3.

²⁸ MINN. STAT. §121A.05.

²⁹ MINN. STAT. §13.32, SUBD. 8(a) (2018).

³⁰ MINN. STAT. §13.32, SUBD. 8(b-d) (2018).

³¹ The “welfare system” includes the “Department of Human Services, local social services agencies, county welfare agencies, county public health agencies, county veteran services agencies, county housing agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and developmental disabilities, Native American tribes to the extent a tribe provides a service component of the welfare system, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract” (see Minn. Stat. § 13.46, subd. 1(c)). Notably, the welfare system does not include juvenile justice entities including law enforcement or corrections.

³² MINN. STAT. § 13.46, SUBD. 2(a)(2).

³³ MINN. STAT. § 13.46, SUBD. 2(a)(10).

³⁴ MINN. STAT. § 13.46, SUBD. 2(a) (33).

³⁵ MINN. STAT. § 13.46, SUBD. 2(a)(15-19).

³⁶ MINN. STAT. § 13.46, SUBD. 7(a)(2, 6). In addition, there are disclosure rules in place for situations in which consent is obtained and the information disclosure is necessary to determine whether an individual is eligible for participation in the Criminal Mental Health Court of Hennepin County. See MINN. STAT. § 13.46, SUBD. 7(d).

³⁷ MINN. STAT. § 245.4876, SUBD. 5(a).

³⁸ MINN. STAT. § 13.46, SUBD. 7(c). In this instance, the scope of the disclosure is limited to the minimum amount of information necessary for law enforcement to respond to the emergency.

³⁹ See 45 CFR 160.103 for an explanation of the types of health care providers included within the definition of “covered entities.”

⁴⁰ Minn. Stat. §§ 144.341 to 144.347. For more information, see Elisabeth Klarqvist, “House Research: Short Subjects – Minors’ Consent for Health Care,” Research Department of the Minnesota House of Representatives, June 2018.

⁴¹ MINN. STAT. § 144.293, SUBD. 2.

⁴² 45 C.F.R. § 164.512 (j).

⁴³ 45 C.F.R. § 164.512 (c).

⁴⁴ 45 C.F.R. § 164.512 (f).

⁴⁵ 45 C.F.R. § 164.512(e).

⁴⁶ 45 C.F.R. § 164.506(c).

⁴⁷ Federal Register (December 28, 2000), p. 82483.

⁴⁸ For the full list of items to be included in the consent, see 42 C.F.R. § 2.31(a). For sample consent forms, please see the following forms from the Legal Action Center (<https://lac.org/resources/substance-use-resources/confidentiality-resources/sample-forms-confidentiality/>).

⁴⁹ Release of substance use treatment information is governed by federal drug and alcohol confidentiality (FDAC) laws (see 42 U.S.C. § 290dd-2) and regulations (42 CFR § Part 2, or Part 2).

⁵⁰ 42 U.S.C. § 290dd-2(b)(1). Note: parental consent would generally still be required for the disclosure of information not pertaining to substance use treatment.

⁵¹ 42 C.F.R. § 2.35.

⁵² This list is not exhaustive but includes situations likely to involve communication between substance use treatment staff and the juvenile justice system. See 42 C.F.R. § 2.12(c) for a complete list.

⁵³ 42 C.F.R. § 2.12(c)(3).

⁵⁴ 42 C.F.R. § 2.12(c)(5).

⁵⁵ 42 C.F.R. § 2.12(c)(6).

⁵⁶ 42 C.F.R. § 2.51.

⁵⁷ 42 U.S.C. § 290dd-(b)(c) and 42 C.F.R. § 2.64.

⁵⁸ If the County Attorney’s office is providing legal counsel to county-employed Correction Officers on a specific case while prosecuting that case, it could pose a conflict of interest. It might be possible for a County Attorney’s office to have an attorney who does not handle criminal work provide this advice behind a “wall,” but lines would have to be very clear. Instead, county employees may seek guidance from the Attorney General or the State Department of Administration, not the County Attorney.

⁵⁹ MINN. STAT. § 13.46, SUBD. 2(a) (33).

⁶⁰ 45 CFR 164.502(b).

⁶¹ MINN. STAT. § 13.05, SUBD. 4.

⁶² MINN. RULES 1205.1400, subpart 3.

⁶³ MINN. RULES 1205.1400, subpart 4.

⁶⁴ For more information on informed consent, please see the Minnesota Department of Administration's webpage on the topic, available at: <https://mn.gov/admin/data-practices/data/warnings/consent/>.

⁶⁵ *State v. Kaquatosh*, 600 N.W.2d 153 (Minn. App. 1999) "Finding it was a violation of a probationer's Fifth Amendment right against self-incrimination to revoke his probation for failing to complete a court-ordered sex-offender treatment program where the failure was due to his refusal to admit facts underlying a conviction from which he is appealing" (Rosado & Shah, 2007).

⁶⁶ For more about approaches to successful collaboration and information sharing, please see the Models for Change information sharing toolkit jointly produced by the Juvenile Law Center and RFK National Resources Center for Juvenile Justice (Juvenile Law Center and RFK National Resource Center for Juvenile Justice, 2015).