

King County

Resource Guide Second Edition

Information Sharing

A facilitating tool for agencies,
partners, and professional staff of
youth-serving systems in King County

Prepared by Uniting for Youth: A partnership of youth-serving systems in King County (formerly King County Systems Integration Initiative). The preparation of this document was supported by Casey Family Programs and the John D. and Catherine T. MacArthur Foundation.

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This guide is the result of the vision of Uniting for Youth (formerly King County Systems Integration Initiative). Uniting for Youth is an ongoing collaboration in Washington State whose ultimate goal is to improve outcomes for multisystem-involved children and youth. The initiative's immediate aim is to change the way we (all systems, including education, mental health, etc.) work together in support of children, youth, and their families.

The work of the initiative's Legal Analysis Subcommittee provided the basis for this guide. Although, much of the guide's essential structure and design was borrowed with permission from *Helping Foster Children Achieve Educational Stability and Success: A Field Guide for Information Sharing*. The Executive Steering Committee has approved it as officially reflecting and supporting the goals of the Initiative. Noella Rawlings, Robert Wyman, Oma LaMothe, Mary Beth Short, Russ Goedde, Lyman Legters, Terry Cays, and Patrick Noone did the detail work necessary to create the First Edition of the Guide. We are grateful for the care they have taken in doing the legal research and in the organization of the document. In addition, we are grateful to other reviewers, including Dave Stolier, Sheila Huber, and Jeff Killip, who serve in the Attorney General's Office representing education, juvenile justice, child welfare, and other social services.

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Casey Family Programs' mission is to provide and improve—and ultimately to prevent the need for—foster care. Established by UPS founder Jim Casey, the Seattle-based national operating foundation has served children, youth, and families in the child welfare system since 1966. The foundation operates in two ways: it provides direct services, and it promotes advances in child welfare practice and policy. Casey's 2020 Strategy is to safely reduce the number of youth in foster care by 50 percent by the year 2020, reinvest the savings to strengthen families and child welfare systems, and improve outcomes for youth in care in the areas of education, employment and mental health.

Models for Change is an effort to create successful and replicable models of juvenile justice reform through targeted investments in key states, with core support from the John D. and Catherine T. MacArthur Foundation. *Models for Change* seeks to accelerate progress toward a more effective, fair, and developmentally sound juvenile justice system that holds young people accountable for their actions, provides for their rehabilitation, protects them from harm, increases their life chances, and manages the risk they pose to themselves and to the public.

Foreword

This resource guide is a tool for the agency partners of Uniting for Youth and their professional staff. The state, county, and community leaders of the initiative envision a smooth, expeditious system characterized by effective teamwork. Information and its constructive use are critical to this sort of teamwork. This guide provides clear, easy-to-follow guidelines around information sharing and confidentiality for children and youth in contact with multiple systems.

Staff often feel confused about what can be shared, or they may feel intimidated by their legal obligations to protect confidentiality. Widespread confusion exists. It even occurs among agency representatives who share similar responsibilities to support the same children, youth, or families. In some circumstances, Washington law and federal law actually allow and support the exchange of information between systems much more readily than is generally understood. To provide clarity and to support effective collaboration, this guide provides basic answers to questions about the sharing of information between the staff of our various systems. While developed for staff in King County, this guide has been reviewed by program counsel and may be applied statewide.

Introduction

This resource guide is for you if you are (a):

- Division of Children and Family Services (DCFS) social worker
- Juvenile Probation Counselor (JPC)
- Juvenile Rehabilitation Administration (JRA) Counselor
- Dependency Court Appointed Special Advocate (CASA) volunteer
- Law enforcement personnel
- School staff and educator
- Mental Health treatment staff
- Substance Abuse treatment staff

This guide is designed to improve communication by providing a better understanding of what information may be shared by participants in juvenile dependency, juvenile justice, education, mental health, and substance abuse treatment systems.

When discussing a child who is involved in multiple systems, it is not uncommon to be uncertain about what information you can share and with whom you can share it. This booklet summarizes what information you can share, how much you can share, and to whom you can give information about that child. Your agency may have other requirements regarding information sharing that you will need to be familiar with and follow. In order to fully understand information sharing across systems and make the most of this guide we recommend that the guide be read in its entirety prior to the use of individual sections.



Information Sharing Principles

There are many federal and state laws and rules governing the sharing of information that must be followed when working with families who have children who are involved with multiple systems. The goal of these laws and rules is to strike a balance between protecting a family's or individual's privacy and legal rights and allowing agencies and system professionals to exchange information considered essential for coordinating services. There may be collateral consequences for children and their families whose information is shared with other systems. It is imperative that you consider these possible unanticipated outcomes when sharing information.

Why should information be shared?

There are children and youth who may be dependent, have committed juvenile offenses, and/or are receiving mental health or substance abuse counseling. They are involved in our Child Welfare, Juvenile Justice, Education, and Mental Health and Substance Abuse Treatment Systems. The agencies and individuals who work with these children are better able to serve the needs of these children when relevant and necessary information is shared. Services can be better coordinated and provided more efficiently. Moreover, timelier and more efficient communication results in a coordinated network to meet the multiple and changing needs of children and their families. Another goal of information sharing is to further the best interests of the child and enhance child and family well-being. Finally, federal and state laws require the disclosure of information in certain circumstances such as suspected child abuse or neglect and public safety.

When should you share information?

This guide answers basic questions about information sharing. It is important to note the Resource Guide is not intended as a substitute for legal advice. To fully understand the laws that apply, some situations require that you consult your supervisor or your legal counsel.

Even if the law gives you authority to share information, many situations require you to use good judgment about what information you should share, how and when to share it, and with whom. The children you work with and their families are dealing with very sensitive issues. Respect their privacy. Ask the requestor for the reasons why the information is needed. Information may be disclosed when the requestor has a need for such information in order to carry out his or her own responsibilities under law to protect or serve children. You need to discuss with the requestor what information is necessary and relevant to the scope of the requestor's work with the child. Having a clear understanding of the requestor's needs will help you disclose only the specific information that is necessary and relevant for serving the needs of the child and family.

Remember that, once released, information may be impossible to retrieve. In addition, it may be subject to redisclosure. *Regularly consult your supervisor, records coordinator, or legal counsel if you are unsure about whether and how to share information.* JRA counselors must refer to JRA policy manuals to determine when and how to share information.

A Look at Roles

What is your role?

Your ability to obtain and share information depends on your role in the child's life. This guide provides several tools to help you decide when and how to share information. It also identifies those laws authorizing the sharing of information. Each child and youth-serving system has different roles and responsibilities with the child, his or her family, the community, and other stakeholders. There are times when there may be conflicting responsibilities between systems. Each person must consider his or her own responsibilities and evaluate the requirements, appropriateness, benefits, and risks when sharing information. It is also important to know and remember others' goals when sharing information in order to effectively address these natural conflicts when they arise.

Juvenile Probation Counselors (JPC)

Juvenile Probation Counselors are responsible for making recommendations to the court regarding treatment and services for a youth during the probation period. They are also responsible for ensuring that all conditions of a court order are followed and that appropriate services are provided to the youth and family. A JPC may seek information regarding the treatment and service needs of a youth in order to develop the most appropriate recommendations to the court. The JPC may also request information from other child serving agencies to determine if a youth has been following the conditions of his or her probation order (i.e., attending school, participating in substance abuse treatment). A JPC assists juveniles in completing court-ordered activities and reports back to the court the status of the youth's participation. If the juvenile is not following the court order, the JPC may bring the juvenile back into court and ask the court to review the case. The court may impose sanctions or consequences for the juvenile for not following the court order. The goal of probation is to provide community safety, accountability and treatment to all youth who fall under the supervision of juvenile court.

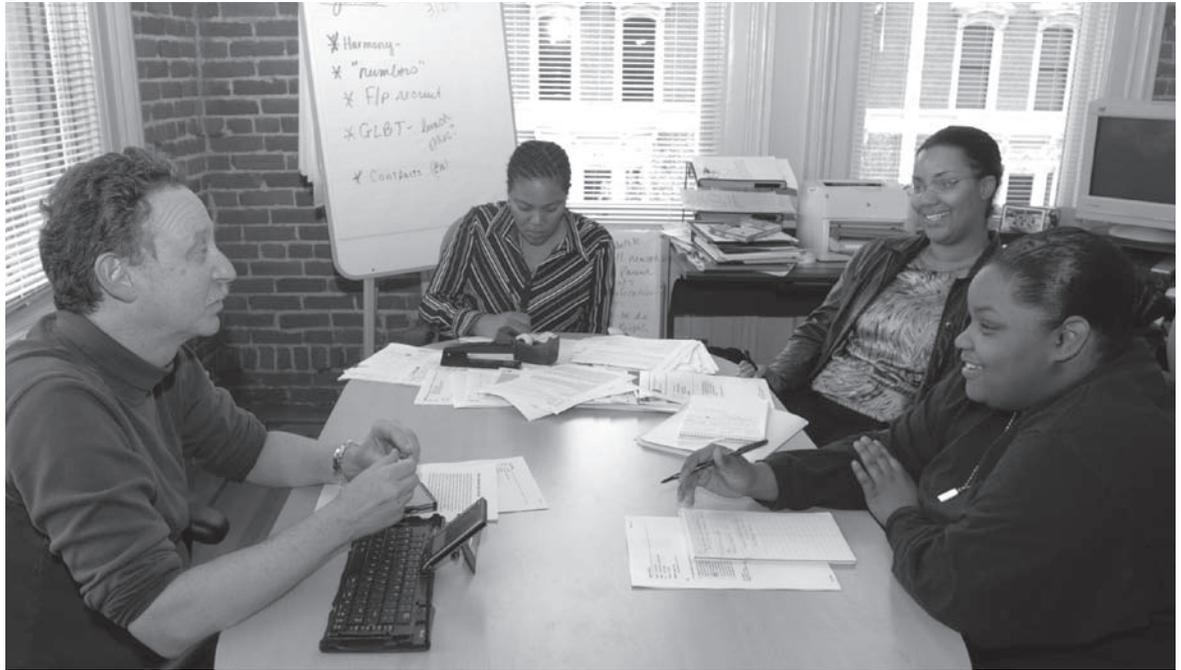
Division of Children and Family Services (DCFS)

Division of Children and Family Services social workers have varying responsibilities for children and youth, all undertaken in an effort to protect the welfare of children and their families. The nature of the social worker's responsibility to a particular child will affect the need for, and rules concerning access to, information regarding the child and family members.

When investigating allegations of child abuse and/or neglect, the law provides DCFS workers broad access to relevant information from mandated reporters during the investigatory period (however a release of information or court order may be necessary to obtain records held by federally-funded chemical dependency providers).

For information about *voluntary participation in services*, DCFS workers will obtain signed releases of information from adults and from youth age 13 or older. Social workers may also seek information via specialized court orders granting the release of records.

When the *child is subject to a court order*, the order may include provisions granting DCFS access to information about the child and parents. The most common context for these orders is in a proceeding for **juvenile dependency**. A court may determine that a child must be placed



in the legal custody of DCFS in order to ensure the child's health, safety and welfare. DCFS then becomes responsible for the care of the child, including placement, schooling, visitation, transportation, and obtaining medical/therapeutic/other services necessary for the child's welfare. In that case, the court will issue an order granting DCFS access to information about the child necessary to carry out those functions.

Juvenile Rehabilitation Administration (JRA)

The Juvenile Rehabilitation Administration protects the public, holds juvenile offenders accountable for their crimes, and reduces criminal behavior through a continuum of preventive, rehabilitative, and transition programs in residential and community settings. A JRA counselor may seek information regarding the treatment and service needs of a youth upon entry into the institution to develop appropriate interventions and maintain the health and safety of the youth while in custody. Upon exit from a JRA institution, the JRA parole counselor will work with the community to put in place appropriate services and supports to successfully return the youth to the community. Parole counselors supervise juvenile offenders released to parole status. Counselors provide structure, supervision, family and client support, and access to needed community services.

School staff and educators

School staff and educators are responsible for creating an environment that is conducive to learning for all students. Their primary responsibility is to ensure that students enrolled in school receive an education that increases academic achievement by meeting student's individual needs and abilities. Educators need information to develop effective education and behavioral plans within the classroom and may need non-academic information (i.e., sexual offending, known effective interventions, patterns of behavior) pertaining to the safety and well-being of the youth or other students at the school. School policies identify standards of conduct and disciplinary sanctions for violations. School staff must apply these policies in a consistent and fair manner, maintaining a safe and healthy school environment while at the same time meeting the needs of individual students.

Dependency Court Appointed Special Advocate (CASA)

A Dependency Court Appointed Special Advocate volunteer is a trained volunteer who represents the best interests of children as they are taken through the legal dependency process. The CASA may talk with the child, parents, family members, social worker, school personnel, health care providers, foster parents and others who know about the child's situation. In addition, the CASA reviews relevant documentation and prepares periodic reports to the court as to findings and recommendations for the child. This may include resources to address a child's special needs, recommendations for temporary placement and permanency plans for the child. The CASA assignment continues until the child is returned home or finds another permanent home.

Mental Health treatment staff

Mental Health treatment staff provide counseling and case management to assist a youth and the family in addressing concerns related to emotional or behavioral symptoms. The focus is on developing a therapeutic relationship with the youth in order to empower him or her to move toward recovery. **Mental Health Professionals** can generally speak to the overall needs of the child or youth they are working with, and provide information regarding participation in treatment and general information regarding progress toward goals. Community Mental Health clinicians do not provide forensic opinions, give opinions regarding a parent's ability to care for their child, or make recommendations for dependency placements. These types of **assessments or evaluations** and opinions require special training and expertise. Mental Health treatment staff may seek information, (i.e. behavioral history, family history, reason for the referral) to determine service needs.

Substance Abuse treatment staff

Substance Abuse treatment staff provide counseling and case management to assist a youth and the family in addressing concerns related to alcohol and other drug use. Substance Abuse treatment staff may seek information to assist him or her in determining treatment and case management needs. Information sought may include results of urinalysis, behavioral history, family history, or reason for the referral. A substance abuse counselor can generally speak to a youth's participation in treatment and progress toward completion. Substance Abuse staff have a clinically appropriate and legally mandated standard of sharing as limited information as possible, based on the recipient's "need to know." WAC 388-805-305(3)(d). This is due to possible negative consequences of reported substance use outside of the therapeutic relationship (i.e., court sanctions). Effective treatment requires the clinician to create a balance between maintaining confidentiality in order to facilitate trust within the therapeutic relationship and meeting reporting requirements.

Families receiving services may have a variety of caring people and agencies involved in their lives. Information often needs to be shared among these participants to ensure stability and continuity for the child. The chart below identifies the primary participants who have or need information about children and families.



Information Sharing Decision-Making Tree

Is the information I have necessary and relevant and important to the child's and family's case planning and services?

YES

Is it my information to share?

Who am I?
What is my role?

NO

Direct the request to the original source of information

UNSURE

Consult your supervisor or legal counsel

YES

Does the recipient have legal permission to obtain the information?

Who is the requestor?
Why is this person requesting the information?
How will the information be used?
Is the person presenting with proper authorization (statute, ROI, court order)?
Is the child represented by legal counsel?

NO

Do not share the information

UNSURE

Clarify the persons's role and intent with your supervisor or legal counsel

YES

Are there any reasons this information SHOULD NOT be released in this situation?

What are the potential consequences of releasing the information?

YES or UNSURE

Consult your supervisor or legal counsel

NO

Share the information and be sure to...

- Use common sense!
- Remember the purpose of the exchange and the role of everyone involved.
- Consider timelines and priorities; share critical information promptly.
- Think about where and how the information will be exchanged. Consider the purpose and type of information to be shared, the parties involved, and timelines when selecting the setting for exchange. Share only to the extent authorized. Also consider whether the information may or will be further disclosed. If only part of the information is disclosable, then the remainder needs to be redacted or withheld.
- Document the release of the information as required by your agency.

DON'T STOP HERE!

Be sure to check the law! Use this Decision-Making Tree with the Overview of Information Sharing Laws in this Field Guide.



Quick Reference Grid on Information Sharing Laws

		RECEIVERS OF INFORMATION						
		DCFS Social Worker	School Staff and Educators	Dependency CASA Volunteer	JPC/JRA Counselor	Law Enforcement Personnel	Mental Health (MH) Treatment Staff	Substance Abuse (SA) Treatment Staff
GIVERS OF INFORMATION	Division of Children and Family Services (DCFS) Social Worker	DCFS social workers can share all information within DCFS.	DCFS can share information necessary for case planning. RCW 13.50.100(3), RCW 26.44.	DCFS shares all information with a few exceptions. See relevant section for exceptions. RCW 13.34.105(3).	DCFS shares necessary information when JPC/JRA counselor is pursuing a case or assigned supervision of the juvenile. RCW 13.50.050; RCW 13.50.100(3).	DCFS shares relevant information when a case involving the juvenile is being pursued or investigated by law enforcement. RCW 13.50.100.	DCFS social workers may not share confidential information with mental health treatment providers without a court order or release of information. RCW 13.50.100.	DCFS social workers may not share confidential information with substance abuse treatment providers without a court order or release of information. RCW 13.50.100.
	School Staff and Educators	Schools can release to DCFS in an emergency, under court order or subpoena, and when a child is dependent or in shelter care. See relevant section for exceptions.	Enrolling district must request records from the district student previously attended. Prior district must send information within 2 school days. RCW 28A.225.330(2)-(3), 34 CFR § 99.31.	Schools must release education records to CASA with a few exceptions. See relevant section for exceptions. RCW 13.34.105(3).	Schools may share relevant information with JPC/JRA counselor when JPC/JRA counselor is pursuing case or assigned supervision of the juvenile. Upon conviction or if the juvenile is in detention, schools must provide records to JPC/JRA counselor necessary for risk assessment, security classification and placement. RCW 13.40.480.	Schools may share relevant information about the juvenile when law enforcement is investigating or pursuing a case involving the juvenile. RCW 13.50.100.	Schools may share directory information and personal observations about a child without consent.	Schools may share directory information and personal observations about a child without consent.
	Dependency CASA (Court Appointed Special Advocate) VOLUNTEER	Dependency CASA volunteers may disclose information per RCW 13.50.100. RCW 13.34.105.					CASA volunteers may not share confidential information with MH staff without a court order or release of information. RCW 13.50.100.	CASA volunteers may not share confidential information with SA staff without a court order or release of information. RCW 13.50.100.
	JPC/JRA Counselor	JPC/JRA counselor may share all relevant information regarding the juvenile when DCFS is investigating or supervising the juvenile. RCW 13.50.050.	JPC/JRA counselor may share information with schools when the school is assigned the responsibility of supervising the juvenile. RCW 13.50.050.	JPC/JRA counselor may share information with the CASA with a few exceptions. See relevant section for exceptions. RCW 13.34.105(3).	JPC and JRA counselor may share with each other when the other is investigating or supervising the juvenile. RCW 13.50.050.	JPC/JRA counselor may share information with law enforcement when law enforcement is investigating or pursuing a case involving the juvenile. RCW 13.50.050.	The JPC may share legal information with MH staff. RCW 13.05.050(2). The JRA counselor may release information to organizations that are part of the JRA continuum of care with a valid release.	The JPC may share legal information with SA staff. RCW 13.05.050(2). The JRA counselor may release information to organizations that are part of the JRA continuum of care with a valid release.
	Law Enforcement Personnel	Law enforcement may share information with DCFS when DCFS is investigating or has supervision of the juvenile. RCW 13.50.050 and RCW 13.50.100.	Upon the decision to arrest, law enforcement may release information to a school regarding the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest, law enforcement may release information to the maximum extent possible to assist schools in protecting students, staff and school property. Incident reports may be released unless under the investigation, prosecution or safety of witnesses is jeopardized. RCW 13.50.050 and RCW 13.50.100.	Law enforcement must share information with the CASA with a few exceptions. See relevant section for exceptions. RCW 13.34.105 and RCW 13.50.100(5).	Law enforcement may share information with JPC/JRA counselor when the JPC/JRA counselor is investigating a case or is assigned supervision of the juvenile. RCW 13.50.050.	May share with each other.	Law enforcement may share necessary information in order to make a referral for services. Law Enforcement may not share information related to a case under investigation.	Law enforcement may share necessary information in order to make a referral for services. Law Enforcement may not share information related to a case under investigation.

		RECEIVERS OF INFORMATION						
		DCFS Social Worker	School Staff and Educators	Dependency CASA Volunteer	JPC/JRA Counselor	Law Enforcement Personnel	Mental Health (MH) Treatment Staff	Substance Abuse (SA) Treatment Staff
GIVERS OF INFORMATION	Mental Health (MH) Treatment Staff	MH staff shall report incidents of suspected child abuse and neglect per state law. RCW 26.44.030, 45 CFR, § 164.512(b)(1)(ii). MH staff shall provide access to relevant records to DCFS staff investigating reports of child abuse and neglect per RCW 26.44.030(12)(b). In other circumstances MH staff may only share treatment information with DCFS social workers when there is a valid court order or release of information.	MH staff may only share information with schools when there is a valid release of information.	MH staff may only share information with the CASA when there is a valid release of information (youth thirteen or older) or a valid court order (children twelve and younger). RCW 13.34.105(3).	Mental Health staff may only share information with JPCs when there is a valid release of information or court order. Mental Health staff may share information with JRA mental health professionals and to those with medical responsibility for the youth's care for care coordination and to make referrals. RCW 71.34.340, 45 CFR, § 164.502(a)(1)(ii) and §164.506.	MH staff shall report incidents of suspected child abuse and neglect per state law. RCW 26.44.030. MH staff shall provide access to relevant records to law enforcement investigating reports of child abuse and neglect per RCW 26.44.030(12)(b). Limited confidential information may be disclosed to law enforcement officers as necessary to carry out the responsibilities of their office. RCW 71.34.340(8). Confidential information may be disclosed to appropriate law enforcement agencies in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. RCW 71.34.340(11). MH staff may disclose information to law enforcement when a person receiving services threatens the health and safety, or is known to have repeatedly harassed, an identified person. RCW 71.34.340(12), 45 CFR, § 164.512(f).	Confidential information may be disclosed in communications between mental health professionals in the provision of services, or in making appropriate referrals RCW 71.34.340(1), 45 CFR, § 164.502(a)(1)(ii) and § 164.506.	MH staff may only share information with SA staff when there is a valid release of information.
	Substance Abuse (SA) Treatment Staff	SA staff shall report incidents of suspected child abuse and neglect per state law RCW 26.44.030, 42 CFR, Part 2.12(c)(6). 42 CFR, Part 2 restrictions continue to apply to additional treatment information. In other circumstances SA staff may only share treatment information with DCFS when there is a valid court order or release of information.	SA staff may only share information with schools when there is a valid release of information or court order.	SA staff may only share information with the CASA when there is a valid release of information or court order.	SA staff may only share information with JPC/ JRA counselor when there is a valid release of information or court order.	SA staff shall report incidents of suspected child abuse and neglect per state law. RCW 26.44.030. SA staff may share limited information that is directly related to a juvenile's commission of a crime on the premises of the program or against program personnel or to a threat to commit such a crime with law enforcement officers. 42 CFR, Part 2.12(c)(5).	SA staff may only share information with MH staff when there is a valid release of information.	SA staff may only share information with other SA staff when there is a valid release of information.

Overview of Information Sharing Laws

Juvenile Justice or Care Agencies

Juvenile justice or care agencies are authorized to share information with each other when the other participant is investigating or pursuing a case involving the child/juvenile or is assigned the responsibility to supervise the child/juvenile. RCW 13.50.050(4) authorizes this sharing regarding records relating to juvenile offenses. RCW 13.50.100(3) relates to juvenile records not covered by RCW 13.50.050. A “juvenile justice or care agency” is defined as:

Police, diversion units, courts, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children’s oversight committee, the office of family and children’s ombudsman, the department of social and health services and its contracting agencies, schools, persons or public or private agencies having children committed to their custody, and any placement oversight committee created under RCW 72.05.415. RCW 13.50.010(1)(a).

Thus, the first question to consider is whether you are a juvenile justice or care agency and whether the person or agency you are dealing with is also a juvenile justice or care agency. If both of you are, the second question is whether an investigation or case involving the juvenile is being pursued by that other participant, or that other participant is assigned the responsibility for supervising the juvenile. If so, RCW 13.50 authorizes you to share certain information with the other participant.

Statutory authorization to share information may be permissive, not required. If you have a question about whether the authorization applies in a particular circumstance, it is prudent to consult with a supervisor or legal counsel about the issue or review organizational policies before disclosing information.

See [Decision-Making Tree](#) on page 14.

Mental Health and Substance Abuse Treatment Agencies

In King County, a variety of county contracted or subcontracted private agencies provide **community mental health** and/or **certified substance abuse treatment** to people who qualify for Medicaid. Depending on circumstances and funding, agencies may also have limited funding to provide **outpatient treatment** to people who do not have Medicaid. There are organizations and individuals that provide mental health and substance abuse services in King County that are not contracted through the county to provide Medicaid services. This guide does not attempt to address information sharing with non-county-contracted treatment organizations or individuals.

Treatment services are covered by several federal and state statutes and regulations. Mental Health and Substance Abuse treatment, also known as **Behavioral Health**, is health care and is subject to health care regulations. The **Health Insurance Portability and Accountability Act (HIPAA)** Privacy Rule regulates the use and disclosure of certain information held by “covered entities,” which includes community treatment agencies. HIPAA establishes regulations for the use and disclosure of **Protected Health Information (PHI)**. PHI is any information held by a covered entity which

concerns health status, provision of health care, or payment for health care that can be linked to an individual.¹ Substance abuse treatment information is also covered by a more restrictive federal regulation, 42 CFR, Part 2. In addition, treatment agencies must comply with state health care and behavioral health laws and regulations as discussed later in this guide. While both federal and state laws include limitations on the sharing of confidential information, they also allow, and even require, information sharing in certain circumstances. County-contracted mental health and substance abuse treatment services are expected to be coordinated with other youth-serving systems when clinically indicated and legally allowed.

Releases of Information Considerations

In addition to statutory authorization to share information, information may also be shared when there is a valid written release or consent to share information (see Appendix D) signed by the appropriate person or when there is a valid court order directing the release of the information.

Several conditions must be met for a **release of information** to be considered valid. There are numerous elements that must be present and completed on a release of information form, depending on the type of agency disclosing the information. Information sharing may be unnecessarily delayed if an insufficient or incomplete form is used. Appendix D of this guide provides an overview of the necessary elements required and a sample release of information. Another expectation for a valid release of information is that the authorized person who signed the document has given **informed consent** for the information to be shared.² This person must fully understand what information will be disclosed, who will receive the information, and how it will be used. When a person is represented by legal counsel the legal counsel should be included in the informed consent process to ensure that the person completely understands how the information could be utilized. Additionally, in Washington State the **age of consent** for outpatient mental health and substance abuse treatment is 13 years of age and older. RCW 71.34.530, RCW 70.96A.095. This means that the youth may independently receive confidential treatment without parent or guardian consent. When a youth may consent for treatment the youth must authorize the release of information. RCW 70.02.130(1). In order for treatment providers to disclose information, even to the youth's parent or guardian, the release of information must be signed by the youth when he or she is 13 years old and older.

System Specific Information

Sharing Guidelines

Division of Children and Family Services (DCFS) Social Workers

As a general rule, Division of Children and Family Services (DCFS) records and information are confidential and generally not subject to public disclosure. RCW 13.50.100. DCFS may share relevant information about children in shelter care and their dependency status if this information is needed by another participant in the juvenile justice or care system in order for that participant to carry out its responsibilities under law to the child.

When can the DCFS social worker share information with other juvenile justice or care agencies?

To make sure the person or agency you are dealing with is authorized to receive information, verify that the agency is listed in RCW 13.50.010(1)(a) as a juvenile justice or care agency (see page 18 of this Guide for the definition of a juvenile justice or care agency). If the requestor is not a juvenile justice or care agency, then this statute does not apply and the information may not be shared without valid authorization. Information contained in the DCFS record may be shared with the other participant only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising that juvenile.

Once you have determined that the person requesting the information meets the above-stated requirements, you then determine whether the information requested is necessary and relevant to the case being investigated or for supervising the juvenile. If so, all necessary and relevant information regarding the juvenile may be shared even though DCFS was not the originating source of the document. RCW 13.50.100(3) permits the release of documents retained or produced by the agency. So long as the document is retained by DCFS, it may be shared with other participants if it is needed by the other participants to carry out their responsibility to the child. Substance Abuse treatment information obtained and held by DCFS is subject to strict federal restrictions on redisclosure without written permission. Consult with an agency attorney before disclosing this information without consent (see redisclosure of Substance Abuse treatment information, page 30). The other participants may not further disclose the information provided by DCFS except as authorized by statute. The information remains confidential and can only be disclosed if a subsequent requestor is authorized to obtain the information. RCW 13.50.100(5).

The identity of individuals making allegations of abuse or neglect may be kept confidential. RCW 13.50.100(7)(c). Also, attorney-client communications are not to be shared. Personal information about foster parents, social security numbers, residential phone numbers and information about other children may not be disclosed.

When can the DCFS social worker share information and records with the child's Juvenile Probation Counselor?

Under RCW 13.50.100, the DCFS social worker is authorized to share information and records with the JPC when the JPC is investigating or pursuing a case involving the juvenile or is assigned the responsibility for supervising the juvenile. The JPC may have all records retained or produced by DCFS that are needed to appropriately and adequately supervise the juvenile or investigate a

case involving the juvenile. Thus, if there is a psychological evaluation of the youth in the DCFS file, DCFS may share that information with the JPC (see redisclosure of Substance Abuse treatment information, page 30). The evaluation and any other information released to the JPC must be relevant to the JPC's case or investigation or necessary to supervise the juvenile. The JPC may not further release information disclosed by DCFS except as authorized by statute. RCW 13.50.100(5). The information remains confidential and may not be further disclosed unless the subsequent requestor is authorized to obtain the information.

When can the DCFS Social Worker share information with the JRA Counselor?

The DCFS Social Worker is authorized to share information and records with the JRA Counselor when JRA is assigned the responsibility for supervising the juvenile or when JRA is investigating or pursuing a case involving the juvenile. The JRA counselor may have all records retained or produced by DCFS that are needed to appropriately and adequately supervise the juvenile or investigate a case involving the juvenile. Thus, if there is a psychological evaluation of the youth in the DCFS file, DCFS may share that information with the JRA counselor (see redisclosure of Substance Abuse treatment information, page 30). The evaluation and any other information released to the JRA counselor must be relevant to the JRA counselor's case or investigation or necessary to supervise the juvenile. The JRA counselor may not further release information disclosed by DCFS except as authorized by statute. RCW 13.50.100(5). The information remains confidential and may not be further disclosed unless the subsequent requestor is authorized to obtain the information.

When can the DCFS social worker share information with schools?

Under RCW 13.50.100, both agencies/entities (DCFS and the school) fall within the definition of a juvenile justice or care agency. As such, they may share information with each other when the agency/entity seeking the record is pursuing a case regarding the juvenile or is responsible for supervising the juvenile. The information sought must be necessary and relevant to the requestor's responsibility and investigation.

Under general circumstances when the school is not investigating a case or responsible for supervising the juvenile, the DCFS social worker may share information necessary for case planning with the school. RCW 26.44.030(7). The information must be relevant for education planning and help the school provide educational services to the child. The school may not further release the information except as authorized by statute. RCW 13.50.100(5). The information remains confidential and cannot be further disclosed unless the subsequent requestor is authorized to obtain the information.

When can the DCFS social worker share information/records with Dependency CASA volunteers?

In general, the DCFS social worker must release all information about the dependent child to the child's court-appointed Dependency CASA volunteer. The exceptions to this general rule are when:

- Information is likely to cause severe psychological or physical harm to the child or his/her parents; or
- Information contains the names and identifying information of persons or organizations who have reported alleged abuse or neglect if they requested confidentiality; or

- Information is about counseling, psychological, psychiatric, medical or substance abuse services that the child voluntarily sought and had the legal right to obtain these services on his or her own. For example, the DCFS social worker should not give CASA volunteers the mental health counseling records of a child age 13 or older without the child's written consent or a court order authorizing the release. RCW 13.34.105(3).
- Additionally, personal information about foster parents, such as social security numbers and attorney-client communications, may not be released.

When can the DCFS social worker share information with Mental Health and Substance Abuse Treatment staff?

DCFS social workers may not share confidential information with mental health or substance abuse treatment providers without a court order. RCW 13.50.010(1)(c), RCW 13.50.100(2). If the child is in out-of-home placement due to a dependency action then there will be a court order that allows for mental health treatment providers and DCFS to share necessary information to coordinate services (see Substance Abuse staff section for court order requirements to release substance abuse treatment information). If the child is not placed outside of the home, there may or may not be court orders permitting information sharing.

Juvenile Probation Counselors (JPC)

When can the JPC share information with the DCFS social worker?

The release of records relating to the commission of juvenile offenses, including diversions, is governed by RCW 13.50.050. JPCs are authorized to release necessary and relevant records to the DCFS social workers when they are investigating or pursuing a case involving the juvenile or are assigned the responsibility for supervising the juvenile. Thus, if the social worker is investigating an allegation of child abuse perpetrated by the juvenile or the juvenile is the victim, the JPC is authorized to share records retained or produced by the JPC, including psychological assessments/evaluations. Additionally, if the child is dependent or the family is receiving CPS services, the JPC may share records retained or produced by the JPC, including psychological assessments/evaluations with the DCFS social worker who is assigned the responsibility of supervising the juvenile to enable the social worker to carry out his or her responsibilities and for case planning purposes. RCW 13.50.050, RCW 26.44.030(7) (see redisclosure of Substance Abuse treatment information, page 30).

When can the JPC share information with Dependency CASA volunteers?

In general, the child's CASA is entitled to all information available to DCFS and the JPC must share information and records with the child's CASA without the consent of the parent or child, with the following exceptions:

- Information is likely to cause severe psychological or physical harm to the child or his/her parents; or
- Information contains the names and identifying information of persons or organizations who have reported alleged abuse or neglect if they have requested confidentiality; or
- Information is about counseling, psychological, psychiatric, medical or substance abuse services that the child voluntarily sought and had the legal right to obtain these services on

his or her own. For example, the JPC should not give CASA volunteers the mental health counseling records of a child age 13 or older without the child's written consent or a court order authorizing the release. See RCW 13.34.105(3).

When can the JPC share information with the schools?

Under RCW 13.50.100, both agencies/entities (Juvenile Probation and the school) fall within the definition of a juvenile justice or care agency. As such, they may share information with each other when the agency/entity seeking the record is pursuing a case regarding the juvenile or is responsible for supervising the juvenile. The information sought must be necessary and relevant to the requestor's responsibility and investigation.

Under general circumstances when the school is not investigating a case or responsible for supervising the juvenile, the JPC may share legal information (such as motions, briefs, court orders, etc) about the youth under his or her supervision with the school. RCW 13.50.010(1)(b), RCW 13.50.050(2). The JPC may share additional information with schools with a valid release of information or court order.

When can the JPC share information with Mental Health and Substance Abuse Treatment staff?

The JPC may share legal information (such as motions, briefs, court orders, etc) about the youth under his or her supervision with outpatient Mental Health and Substance Abuse treatment agencies. RCW 13.50.010(1)(b), RCW 13.50.050(2). The JPC may share additional information with treatment providers with a valid release of information or court order.

King County Juvenile Detention

King County has a unique design for its juvenile justice services which sometimes leads to confusion among youth-serving systems when seeking or providing information. In 1999, the King County Department of Youth Services, which was comprised of juvenile detention and juvenile probation services, was eliminated. The juvenile detention services division was transferred to the existing Department of Adult Detention, which then became the Department of Adult and Juvenile Detention and the juvenile probation services division was transferred to King County Superior Court. Both divisions continue to be housed at the King County Youth Service Center along with Juvenile Court and the juvenile divisions of the Prosecuting Attorney's Office and the Department of Judicial Administration. While all of these divisions work collectively to serve youth and families in the local juvenile justice system, the King County Department of Adult and Juvenile Detention - Juvenile Division is responsible for the care and custody of youth who are detained in the Juvenile Detention Facility.

In addition, Juvenile Detention has a Health Clinic with health care and mental health professionals contracted through the University of Washington to serve detained youth. The Health Clinic located within Juvenile Detention is not considered a "covered entity" under the federal HIPAA laws. The Health Clinic records are subject to the same confidentiality and information sharing provisions as required by RCW 70.02 and RCW 71.05. Generally, staff working within the Health Clinic may only share information with other system professionals with a valid release of information.

Juvenile Rehabilitation Administration (JRA) Counselors

The court may commit a youth adjudicated for an offense to the custody of JRA under RCW 13.40.185. These youth generally have committed a serious offense or have a history of multiple offenses. Youth are sentenced per RCW 13.40.0357. As the youth moves through JRA's continuum of care, the JRA parole counselors provide parole aftercare services. JRA staff must refer to its own policy manuals when determining whether to release records.

When can the JRA Counselor share information with the DCFS Social Worker?

As stated earlier, the release of information is governed by RCW 13.50.050 and RCW 13.50.100. JRA Counselors are authorized to share information with the DCFS social worker when DCFS is investigating or pursuing a case involving the juvenile or is assigned the responsibility for supervising the juvenile. For example, if the child is dependent, the JRA Parole Counselor is authorized to share information that is needed by DCFS to fulfill its responsibilities to the juvenile. RCW 13.50.100. The JRA Counselor is also authorized to release JRA records as necessary to complete reports of abuse or neglect or alleged new crimes. RCW 26.44.050. The JRA Counselor will share all necessary and relevant records retained or produced by JRA that are necessary for DCFS to carry out its

responsibilities to the juvenile. RCW 13.50.050(4), RCW 13.50.100(3) (see redisclosure of Substance Abuse treatment information, page 30). The release of records is limited to records that will assist DCFS in carrying out its responsibilities to the juvenile.

When can the JRA Counselor share information with Mental Health and Substance Abuse treatment staff?

JRA counselors must obtain valid release of information forms prior to sharing information with outpatient mental health and substance abuse treatment staff. The JRA counselors may release information to organizations that are part of the JRA continuum of care with a valid release. This includes those agencies providing care, treatment, and other services to a youth as a result of or in connection with a youth's JRA commitment or supervision.

Dependency Court Appointed Special Advocate (CASA) Volunteer

When can Dependency Court Appointed Special Advocate (CASA) Volunteers share information?

Dependency CASA volunteers and Guardians ad Litem (GALs) may disclose information to participants in the juvenile justice or care system per RCW 13.50.100 (that is, when the participant is pursuing a case or investigation regarding that juvenile or is assigned the supervision of that juvenile). RCW 13.34.105(3).

When can the CASA volunteer share information with Mental Health and Substance Abuse treatment staff?

The CASA volunteer may only release information to mental health and substance abuse treatment staff as permitted by court order.

Law Enforcement Personnel

When may law enforcement share information and records with other participants in the juvenile justice system or a juvenile care agency?

Law enforcement may share information with other juvenile justice or care agencies (see page 18 of this Guide for the definition of a juvenile justice or care agency) as defined by RCW 13.50.010(1)(a) when an investigation or case involving the juvenile is being pursued by the other agency or when the other agency is assigned the responsibility of supervising the juvenile. RCW 13.50.050.

When may law enforcement share information with schools?

Law enforcement may cooperate with schools in releasing information to the school regarding the investigation, diversion and prosecution of a juvenile attending the school. Upon the decision to arrest, incident reports may be released to the school unless the investigation or prosecution would be jeopardized or witnesses endangered. If so, law enforcement may release information to the maximum extent possible to assist schools in protecting other students, staff and school property. RCW 13.50.050(7).

When can Law Enforcement share information with Mental Health and Substance Abuse treatment staff?

Law enforcement may share necessary information in order to make a referral for mental health and substance abuse treatment services. Law Enforcement may not share information related to a case currently under investigation.

School Staff and Educators

The Family Education Rights and Privacy Act, or FERPA, is a federal law that ensures confidentiality of, and parental access to, education records. In general, FERPA prohibits the disclosure or release of personally identifiable information from a student's education records unless the student's biological parent consents in writing or the release is specifically authorized by FERPA. There are several important circumstances, however, under which schools can share information with agencies serving and supervising youth. **Education Records** are defined as records that are directly related to a student and maintained by an educational agency. School staff can share **directory information** without parent consent, such as name, date of birth, attendance. School staff and educators are allowed to discuss with others their personal observations about a child. These personal observations are not considered education records under FERPA.

Keep in mind, limits on a school's power to release education records to others should not prevent a child from enrolling in school or obtaining educational services.

When can school staff and educators share education records with the child's DCFS social worker?

Schools must share information with the child's DCFS social worker when DCFS has the responsibility for supervising the child or is engaged in an investigation regarding the child. Schools are to share all records regarding the child that are needed by DCFS to fulfill its statutory responsibilities to the child and to investigate a case involving the child. These responsibilities include the supervision and placement of the child. RCW 13.50.100(3). Schools must also share information directly related to reports of abuse or neglect with DCFS for case planning and consultation purposes if the DCFS determines it is in the child's best interests. RCW 26.44.030(7).

After dependency is established, under RCW 28A.150.510, school staff and educators shall release education records to the DCFS social worker as long as the DCFS social worker certifies that the information will not be further disclosed without parental consent unless authorized by state law. Keep in mind that state law does permit the DCFS social worker to share educational information needed for case management purposes to licensed and relative caregivers. RCW 28A.150.510, RCW 74.13.280, WAC 388-25-0090.

When can school staff and educators share information and education records with Dependency CASA volunteers?

When a Dependency CASA volunteer presents to the school the court order appointing him/her to the child's case, school staff must allow inspection or copying of all education records to a Dependency CASA without the consent of the parent or of the child, with the following exceptions:

- Information is likely to cause severe psychological or physical harm to the child or his/her parents; or

- Information contains the names and identifying information of persons or organizations who have reported alleged abuse or neglect if they requested confidentiality; or
- Information is about counseling, psychological, psychiatric, medical or substance abuse services that the child voluntarily sought and had the legal right to obtain these services on his or her own. For example, school staff should not give CASA volunteers the mental health counseling records of a child age 13 or older without the child's written consent or a court order authorizing the release. RCW 13.34.105(3).

When can school staff and educators share information with JPCs?

In order to serve the juvenile while in detention or to prepare for any post-conviction services, schools shall make all student records and information necessary for risk assessment, security classification, and placement available to court personnel within three days of the request.

Additionally, if the JPC is pursuing an investigation or case regarding the juvenile or is assigned the responsibility of supervising the juvenile, schools may share relevant and necessary information with the JPC. RCW 13.50.100(3).

When can schools share information with Mental Health and Substance Abuse treatment staff?

The general rule, as mentioned earlier, is that directory information and personal observations about a child can be shared without consent. The educational information contained in educational records (i.e., **Individual Education Plans, 504 plans**, etc.) can only be obtained with consent by the legal parent or eligible student who is 18 years of age or older.

What are some exceptions that allow school staff to release information?

School staff and educators can disclose records in order to comply with a **court order** or lawfully issued **subpoena**. If the juvenile has one or more prior convictions, the request for records can be made via a subpoena by the prosecutor or JPC, not more than 10 days following the juvenile's arrest or detention and prior to trial. RCW 13.40.480. If responding to a subpoena, the school must make reasonable efforts to notify the parent of the student before releasing the records. School staff should check with their districts regarding possible exceptions to this rule. 20 USC § 1232g(b)(1)(J)(ii), 34 CFR § 99.31(a)(9).

Mental Health Treatment Staff

There are numerous federal and state rules and regulations on the subjects of confidentiality and access to mental health treatment records. These laws are at times ambiguous, and differing interpretations may be available. Generally speaking, Washington state laws afford for a higher level of confidentiality of mental health treatment information than described in HIPAA. Admission to outpatient community mental health agencies and all information obtained through treatment is confidential except as authorized by RCW 71.34.340.

RCW 71.34.340 allows for the disclosure of confidential information without a release of information under specific circumstances. This includes communication between mental health professionals for the coordination and continuity of care as well as in making appropriate referrals. It also allows for the disclosure of information to people with medical responsibility for

the minor's care and to appropriate law enforcement agencies in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. See RCW 71.34.340 for additional exceptions.

When can Mental Health treatment staff share information with DCFS?

Mental Health treatment staff shall report incidents of suspected child abuse and neglect per state law. RCW 26.44.030, 45 CFR, § 164.512(b)(1)(ii). DCFS staff investigating a report of abuse or neglect shall have access to all relevant records of the child in the possession of mandated reporters and their employees. RCW 26.44.030(12)(b). In other circumstances Mental Health staff may only share treatment information with DCFS staff when there is a valid court order or release of information (see page 10 for additional DCFS information).

When can Mental Health treatment staff share information with Dependency CASA Volunteer?

When a Dependency CASA volunteer presents Mental Health treatment staff the court order appointing him/her to the child's case, staff must allow inspection or copying of all records to a Dependency CASA without the consent of the parent or of the child, with the following exceptions:

- Information is likely to cause severe psychological or physical harm to the child or his/her parents; or
- Information contains the names and identifying information of persons or organizations who have reported alleged abuse or neglect if they requested confidentiality; or
- Information is about counseling, psychological, psychiatric, medical or substance abuse services that the child voluntarily sought and had the legal right to obtain these services on his or her own. For example, treatment staff should not give CASA volunteers the mental health counseling records of a child age 13 or older without the child's written consent or a court order authorizing the release. RCW 13.34.105(3).
- A valid shelter care court order allows Mental Health staff to share treatment information for children 12 and under. However, the child's consent is still required for children 13 and older. RCW 13.34.069, RCW 71.34.530.

When can Mental Health treatment staff share information with School Staff and Educators?

Mental Health treatment staff may only share information with school staff and educators when there is a valid release of information or court order. Mental Health staff may share information with mental health professionals located in educational programs and sites in order to coordinate care and make referrals. RCW 71.34.340(1), 45 CFR, § 164.502(a)(1)(ii) and § 164.506.

When can Mental Health treatment staff share information with JPCs or JRA Counselors?

Mental Health treatment staff may only share information with JPCs when there is a valid release of information or court order. Mental Health staff may share information with JRA mental health professionals and to those with medical responsibility for the youth's care for care coordination and to make referrals. RCW 71.34.340(1) and (3), 45 CFR, § 164.502(a)(1)(ii) and § 164.506.

When can Mental Health treatment staff share information with King County Juvenile Detention?

While in detention, Mental Health treatment staff may share information with detention Health Clinic professionals for care coordination and referrals. It is important that Mental Health treatment staff use sound clinical judgment and consultation, as needed, to determine the appropriate type and amount of information to be shared. RCW 71.34.340 allows confidential information to be disclosed in communications between mental health professionals in the provision of services to the minor, or in making appropriate referrals or to persons with medical responsibility for the minor's care. 45 CFR, § 164.502(a)(1)(ii) and § 164.506.

When can Mental Health treatment staff share information with Law Enforcement?

45 CFR, § 164.512(f) allows for the release of information to law enforcement in some circumstances. The most applicable situations for mental health treatment staff sharing information with law enforcement are described here. A law enforcement agency investigating a report of abuse or neglect shall have access to all relevant records of the child in the possession of mandated reporters and their employees. RCW 26.44.030(12)(b). Limited confidential information (the fact and date of admission, date of discharge, name and address of the treatment provider, last known address) may be disclosed to law enforcement officers upon request as necessary to carry out the responsibilities of their (law enforcement) office. RCW 71.34.340(8). Confidential information may be disclosed to appropriate law enforcement agencies, upon request, to include all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. RCW 71.34.340(11). Mental Health treatment staff may disclose information to law enforcement when a person receiving services threatens the health and safety, or is known to have repeatedly harassed, an identified person. Only the dates of admission, discharge, and other information that is pertinent to the threat or harassment shall be disclosed. RCW 71.34.340(12). There may be less common situations in which HIPAA allows mental health treatment staff to share information with law enforcement. State law restrictions would apply, however, where they are more stringent than HIPAA. 45 CFR § 160.203(b).

When can Mental Health treatment staff share information with Mental Health staff?

Mental Health treatment staff may share necessary information with mental health professionals in order to coordinate services and make referrals. RCW 71.34.340(1). 45 CFR, § 164.502(a)(1)(ii) and § 164.506

When can Mental Health treatment staff share information with Substance Abuse Staff?

Mental Health treatment staff may only share information with substance abuse agencies when there is a valid release of information. If an agency provides both mental health and substance abuse services within a single program, information may be shared by staff for treatment and health care operations. Treatment includes the provision, coordination, or management of health care and related services. 45 CFR, § 164.502(a)(1)(ii) and § 164.506(c), RCW 70.02. For more information about health care operations see 45 CFR § 164.501.

Substance Abuse Treatment Staff

Substance Abuse treatment information is federally protected by 42, CFR, Part 2, which is significantly more restrictive than HIPAA and Washington state laws. While 42 CFR, Part 2 does not allow for the same level of information sharing as HIPAA or Washington state mental health treatment laws, it does allow for limited disclosures without written consent. These exceptions to the general rule prohibiting disclosure are fully described in 42 CFR, Part 2. For example, patient identifying information may be disclosed to medical personnel who have a need for information about a patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention. 42 CFR, Part 2.51(a). Due to the, at times, contradictory, and complex nature of federal and state laws, substance abuse treatment staff must be particularly cautious about following confidentiality requirements when releasing information.

42 CFR, Part 2.32 prohibits the **redisclosure** of any substance abuse treatment information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR, Part 2. This federal regulation supersedes RCW 13.50.100(3) which allows juvenile justice and care agencies to share documents retained in their records even when the agency was not the originating source of the document.

When can Substance Abuse treatment staff share information with DCFS?

Substance Abuse treatment staff shall report incidents of suspected child abuse and neglect per state law. RCW 26.44.030(1)(a). 42 CFR, Part 2.12(c)(6) allows for the reporting under state law of incidents of suspected child abuse and neglect to the appropriate state or local authorities. For information describing the required contents of the report of incidents of suspected child abuse and neglect see RCW 26.44.040. RCW 26.44.030(12)(b) allows DCFS access to all relevant records of the child in the possession of mandated reporters and their employees while conducting an investigation of alleged abuse or neglect. RCW 26.44.030(12)(b) does not supersede 42 CFR, Part 2. Substance Abuse treatment staff may not release additional treatment information beyond the reporting requirements of RCW 26.44.040. 42 CFR, Part 2.12(c)(6). In other circumstances Substance Abuse staff may only share treatment information with DCFS when there is a valid court order or release of information.

When can Substance Abuse treatment staff share information with a Dependency CASA Volunteer?

Substance Abuse treatment staff may only share information with the CASA when there is a valid release of information or court order. Substance abuse staff may share treatment information with a valid court order as described in 42 CFR, Part 2.61. See court order requirements at the end of this section.

When can Substance Abuse treatment staff share information with School Staff and Educators?

Substance Abuse treatment staff may only share information with schools when there is a valid release of information or court order. Substance abuse staff may share treatment information with a valid court order as described in 42 CFR, Part 2.61. See court order requirements at the end of this section.

When can Substance Abuse treatment staff share information with JPCs or JRA Case Managers?

Substance Abuse treatment staff may only share information with JPCs or JRA Counselors when there is a valid release of information or court order. Substance abuse staff may share treatment information with a valid court order as described in 42 CFR, Part 2.61. See court order requirements at the end of this section.

When can Substance Abuse treatment staff share information with King County Juvenile Detention?

Substance Abuse treatment staff may only share information with Juvenile Detention when there is a valid release of information or court order. Substance abuse staff may share treatment information with a valid court order as described in 42 CFR, Part 2.61. See court order requirements at the end of this section.

When can Substance Abuse treatment staff share information with Law Enforcement?

Substance Abuse treatment staff shall report incidents of suspected child abuse and neglect per state law. RCW 26.44.030(1)(a), 42 CFR, Part 2.12(c)(6). For information describing the required contents of the report of incidents of suspected child abuse and neglect see RCW 26.44.040. RCW 26.44.030(12)(b) allows law enforcement access to all relevant records of the child in the possession of mandated reporters and their employees while conducting an investigation of alleged abuse or neglect. RCW 26.44.030(12)(b) does not supersede 42 CFR, Part 2. Substance Abuse treatment staff may not release additional treatment information beyond the reporting requirements of RCW 26.44.040. 42 CFR, Part 2.12(c)(6). Substance Abuse treatment staff may share information that is directly related to a juvenile's commission of a crime on the premises of the program or against program personnel or to a threat to commit such a crime with law enforcement officers. 42 CFR, Part 2.12(c)(5). The information that may be released to law enforcement is limited to the circumstances of the incident, including the patient status of the individual committing or threatening to commit the crime, that individual's name and address, and the individual's last known whereabouts. 42 CFR, Part 2.12(c)(5)(ii).

When can Substance Abuse treatment staff share information with Mental Health Staff?

Substance Abuse treatment staff may only share information with Mental Health treatment staff when there is a valid release of information. If an agency provides both mental health and substance abuse services and meets organizational structure requirements information may be shared internally by staff, as needed, for service provision. 42 CFR, Part 2.12(c)(3).

What is required for a valid court order to release Substance Abuse treatment information?

A court order entered under 42 CFR, Part 2 is a unique kind of court order. 42 CFR, Part 2.61. Its only purpose is to authorize a disclosure or use of patient information which would otherwise be prohibited. Such an order does not compel disclosure. A subpoena or a similar legal mandate must be issued in order to compel disclosure. 42 CFR, Part 2, Subpart E sets out the procedure the court must follow, the findings it must make, and the limits it must place on any disclosure it authorizes.



Conclusion

This guide has addressed several possible opportunities for information sharing among youth-serving professionals. There are multiple layers in many of these systems that have not been focused on where information sharing guidelines are different than described here. Some of the programs not included in this guide are, At-Risk Youth, Child in Need of Services, Crisis Stabilization, Disposition Alternatives, Juvenile Drug Court, **Inpatient Treatment**, Involuntary Commitment, Truancy, and Wraparound.

The laws and rules on information sharing aim to strike a balance between protecting the privacy and legal rights of individuals and families and allowing professionals and agencies working with children and families to share information essential to help children. Your ability to share information for purposes of case and service planning depends on your role in the child's life. Even if you have the authority to share information, many situations require you to use good judgment about what information you should share, how and when to share it, and with whom. Regularly consult the law and your supervisor to make sure that you follow these guiding principles for information sharing:

**Respect for children
and families**

**Stability and continuity
in the child's life**

**Prompt delivery of
meaningful services**

**Success for all
children**



Endnotes

1. Health Insurance Portability and Accountability Act. (2008, November 7). In Wikipedia, The Free Encyclopedia. Retrieved November 12, 2008, from: www.en.wikipedia.org/w/index.php?title=Health_Insurance_Portability_and_Accountability_Act&oldid=302474960
2. In Brief, Information Sharing and Confidentiality. Jones, B., Shorter, A., and Stapleton, T., The Center for Juvenile and Criminal Justice, 2002. Retrieved October 27, 2008, from: www.cjcj.org/files/legal_primer.pdf

Appendix A: Information Sharing and Confidentiality Laws

Washington State Laws

Child Abuse and Neglect Reporting Statute, RCW 26.44

Common School Provisions, RCW 28A

Control and Treatment of Sexually Transmitted Diseases, RCW 70.24

Family Reconciliation Act, RCW 13.32A

Juvenile Court Act, RCW 13.34

Juvenile Justice Act, RCW 13.40

Keeping and Release of Records by Juvenile Justice or Care Agencies, RCW 13.50

Public Disclosure Act, RCW 42.17

Mental Health Services for Minors, RCW 71.34

Mental Illness, RCW 71.05

Social and health services, department of, WAC 388

Treatment for Alcoholism, Intoxication, and Drug Addiction, RCW 70.96A

Uniform Health Care Information Act, RCW 70.02

You can find any of these state laws at

<http://apps.leg.wa.gov/rcw/> and <http://apps.leg.wa.gov/wac/>

Federal Laws

Adoption and Safe Family Act, 42 U.S.C. § 629(b), P.L. 105-89

Alcohol and Drug Abuse Patient Records, 42 U.S.C. § 290dd-3 and 42 USC § 290ee-3, 42 CFR, Part 2

Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5101, et seq.

Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, 34 CFR § 99

Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 201, 45 CFR § 160, 164

You can find any of these federal regulations at <http://cfr.law.cornell.edu/cfr/>

Appendix B:

Acronyms and Glossary

Acronyms

CASA	Court Appointed Special Advocate
CFR	Code of Federal Regulations
CPS	Child Protective Services
DCFS	Division of Children and Family Services
DSHS	Department of Social and Health Services
FERPA	Family Educational Rights and Privacy Act
HIPAA	Health Insurance Portability and Accountability Act
JPC	Juvenile Probation Counselor
JRA	Juvenile Rehabilitation Administration
RCW	Revised Code of Washington
U.S.C.	United States Code
WAC	Washington Administrative Code

Glossary

504 plan

A written education plan based on Section 504 of the Rehabilitation Act of 1973 which protects persons from discrimination based upon their disability status. The law provides for accommodations (i.e., wheelchair ramps; additional test time; enlarged print materials, etc.) to students who meet specific criteria.

Age of Consent

The age at which a person may legally consent (agree) to receive treatment. The age of consent for outpatient mental health and substance abuse treatment is 13 years of age and older in Washington State.

Assessment or evaluation

A comprehensive, individualized examination conducted by a clinician. The purpose may be diagnosing and/or determining treatment recommendations.

Behavioral Health

A catch-all term that refers to both mental health and substance abuse.

Certified Substance Abuse treatment

Services provided by a chemical dependency service provider certified by the Washington State Division of Behavioral Health and Recovery.

Community Mental Health Centers

Agencies that provide mental health services through contracts with the **Regional Support Networks**.

Court Order

An order issued by a court that requires a person to do or refrain from doing something.

Directory Information

Relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student. 20 U.S.C. § 1232g(a)(5)(A).

Education Records

Are records that are directly related to a student and maintained by an educational agency.

Inpatient Treatment

Services received while a person is hospitalized or in residential care.

Informed Consent

A person signing a release of information fully understands what information will be disclosed, who will receive the information, and how it will be used.

Individual Education Plan (IEP)

A written education plan for students who have disabilities that qualify for special education requiring specially designed instruction, as opposed to an accommodation provided by the 504 Plan. The IEP is developed by a multidisciplinary team and describes the goals the team sets for a child during the school year, as well as the support needed to help achieve them.

Juvenile Dependency

While DCFS social workers offer voluntary services to families, those may not always be adequate to prevent threats to a child's welfare. In some circumstances DCFS may ask the Juvenile Court to intervene in the legal relationship between parent and child by filing a "dependency petition." While considering the petition, the court may enter an order temporarily placing the child in the custody of DCFS ("shelter care status") and issue an order granting DCFS access to information from schools, service providers, and others as necessary to ensure the child's daily care and stability. If the court ultimately enters an "order of dependency," the child will become a dependent of the state. He or she will remain in the legal custody of DCFS until it is possible to return the child home, or, if a return home is not possible, until it is possible to place the child in an alternate permanent placement.

Mental Health Professional

Means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary. RCW 71.34.020(14).

Outpatient Treatment

Services are community based, located near a person's residence; does not include hospitalization or residential care.

Protected Health Information (PHI)

Any information held by a HIPAA-covered entity which concerns health status, provision of health care, or payment for health care that can be linked to an individual.

Redisclosure

When an individual or organization discloses information or records it did not originate.

Regional Support Network (RSN), King County

Manages King County's publicly funded mental health plan. Services are provided through a network of outpatient service providers who are licensed by the Washington State Division of Behavioral Health and Recovery as community mental health centers.

Release of Information (ROI)

A document that legally authorizes entities to share protected information. An ROI may also be called a written consent or an authorization.

Subpoena

A writ commanding a person designated in it to appear in court under a penalty for failure.

Treatment

Therapeutic interventions designed to address the mental health or substance abuse needs identified from an assessment. Treatment may include: individual therapy, group therapy, family therapy, administration of medication.

Appendix C: Frequently Asked Questions

Are JPCs and/or JRA counselors prohibited from sharing information with anyone other than a child's parents?

Parents or juveniles and their attorneys are to be given access to all records and information collected or retained by the JPC and/or JRA counselors with a few exceptions. See RCW 13.50.100(7) In addition, records retained or produced by the JPC and/or JRA counselor may be shared with DCFS social workers if DCFS is investigating or pursuing a case regarding the juvenile or has supervision of the juvenile with the exception that Substance Abuse treatment information may not be redisclosed without valid written consent or as authorized by 42 CFR, Part 2.

What are the differences between Substance Abuse and Mental Health privacy laws?

Substance Abuse and Mental Health services are confidential according to both state and federal laws. There are some laws that apply to only Substance Abuse services, others that apply to only Mental Health services, and yet others that apply to both. There are exceptions to confidentiality in certain circumstances, as discussed elsewhere in the guide. The differences between Substance Abuse and Mental Health confidentiality and privacy laws are too many to fully outline here. One primary difference is that Substance Abuse services are covered by 42 CFR, Part 2, which is a federal law that affords a high level of confidentiality and supersedes state laws. There are situations when Mental Health staff may share information, but in the same situation Substance Abuse staff would be prohibited from sharing information.

What is the difference between the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC)?

The RCWs are state laws that are currently in force (enacted by the Legislature, and signed by the Governor, or enacted via the initiative process). The WACs are the current administrative regulations created by state agencies to carry out the RCWs. The WACs are a source of primary law in Washington state like the RCWs.

Is a Juvenile Probation Counselor required to report issues of abuse or neglect?

Yes. JPCs are mandated by law to report incidents of abuse or neglect if it is disclosed to the JPC or if they witness such.

Can a Juvenile Probation Counselor arrest a client?

No. In King County, the JPC does not have arrest authority. To have a youth arrested on a warrant a JPC must contact the local police department to arrest a juvenile.

Can a JPC testify against a youth at a Fact Finding (trial)?

Under a local court rule, the JPC cannot testify for or against a youth without his or her permission. This was established so that the youth could feel free to discuss issues with the JPC without fear that the JPC would have to testify against them at a finding of fact. Based on more recent information and legal opinion, the youth can refuse to talk to a JPC about the offense prior to the disposition.

Do schools require a parent's signature on the release of information for treatment providers to get education records such as an Individual Education Plan (IEP)?

Yes, it is required by federal law. Only youths 18 years of age or older may authorize the release of their educational records without a parent's consent.

Appendix D:

Release of Information: Required Elements

Health care records are the property of the organizations which produce and maintain the physical records. However, the actual health care information contained in the records is the property of the individual (or his or her personal representative) to whom the records pertain. When a youth may consent for treatment the youth must authorize the release of information. RCW 70.02.130(1). A release of information is a document that legally allows the sharing of information by organizations and individuals. The format and required elements of a release of information vary. A release of information may only allow for information to go from one entity to another or provide for a mutual exchange of information (see page 19 for further discussion about releases of information.)

Alcohol and Drug Abuse Patient Records

42 CFR, Part 2.31 states that "a written consent to a disclosure under these regulations must include":

1. The specific name or general designation of the program or person permitted to make the disclosure.
2. The name or title of the individual or the name of the organization to which disclosure is to be made.
3. The name of the patient.
4. The purpose of the disclosure.
5. How much and what kind of information is to be disclosed.
6. The signature of the patient and, when required for a patient who is a minor, the signature of a person authorized to give consent
7. The date on which the consent is signed.
8. A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it.
9. The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must insure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.

Health Insurance Portability and Accountability Act (HIPAA)

45 CFR, § 164.508 mandates the following elements for “a valid authorization”:

1. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion
2. The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.
3. The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure.
4. A description of each purpose of the requested use or disclosure. The statement “at the request of the individual” is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose.
5. An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure.
6. Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative’s authority to act for the individual must also be provided. *Verification of the signature may be required.*

In addition to the core elements, the authorization must contain statements adequate to place the individual on notice of all of the following:

7. The individual’s right to revoke the authorization in writing, and either:
 - a) The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or
 - b) To the extent that the information in paragraph (c)(2)(i)(A) of this section is included in the notice required by § 164.520, a reference to the covered entity’s notice.
8. The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:
 - a) The covered entity may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations in paragraph (b)(4) of this section applies; or
 - b) The consequences to the individual of a refusal to sign the authorization when, in accordance with paragraph (b)(4) of this section, the covered entity can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.
9. The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by this rule.

CONSENT/AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Mental Health and Chemical Dependency Records

Client Name: _____ Date of Birth: _____

Social security Number: _____ Phone: _____

This is to authorize that the information specified below regarding the above person be disclosed between:

Person: _____ Organization: _____

Address: _____

Phone: _____ FAX: _____

AND

Person: _____ Organization: _____

Address: _____

Phone: _____ FAX: _____

PURPOSE OF DISCLOSURE (be as specific as possible):

Coordination of Care _____

Coordinate Case Transfer _____

Crisis Management _____

Client Request _____

Other: _____

TYPE OF INFORMATION TO BE RELEASED (as limited as possible)—Include Date Range: (Client initial checked category.)

- | | |
|---|---|
| <input type="checkbox"/> Assessment Results & Recommendations _____ | <input type="checkbox"/> History (Type) _____ |
| <input type="checkbox"/> Attendance in Services _____ | <input type="checkbox"/> Medication: _____ |
| <input type="checkbox"/> Urinalysis Results _____ | <input type="checkbox"/> School attendance/records _____ |
| <input type="checkbox"/> Case Management Services _____ | <input type="checkbox"/> Treatment Goals and/or Progress _____ |
| <input type="checkbox"/> Clinical Recommendations _____ | <input type="checkbox"/> Test Results. Type: _____ |
| <input type="checkbox"/> Diagnosis _____ | <input type="checkbox"/> Verification of completion of Services/Hours _____ |
| <input type="checkbox"/> Discharge Summary/recommendations _____ | <input type="checkbox"/> Referrals: _____ |
| <input type="checkbox"/> Eligibility criteria for services _____ | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Identification of Status in Services _____ | <input type="checkbox"/> Other: _____ |

I understand that my records are protected under the Federal and State confidentiality laws. I understand that my records are protected under the Federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, and that any information that identifies me as a patient in an alcohol or other drug abuse program cannot be disclosed without my written consent except in limited circumstances as provided for in these regulations.

I understand that my records are currently protected under the Federal privacy regulations within the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Parts 160 & 164. I understand that my health information specified above will be disclosed pursuant to this authorization, and that the recipient of the information may redisclose the information and it may no longer be protected by the HIPAA privacy law. The Federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, noted above, however, will continue to protect the confidentiality of information that identifies me as a patient in an alcohol or other drug program from redisclosure.

I also understand that I may revoke this authorization in writing at any time except to the extent that action has been taken in reliance on it, and that in any event this authorization expires automatically as follows:

(Specification of the date, event, or condition upon which this authorization expires)
or 90 days from the date signed.

Client Signature _____ Signature of Person Authorized to Sign for Client _____

Date _____ Date _____

Appendix E:

Resources

King County/Washington State Resources

Casey Family Programs www.casey.org

DSHS Children's Administration www1.dshs.wa.gov/ca/general/index.asp

DSHS Electronic Forms www.dshs.wa.gov/msa/forms/eforms.html

DSHS Juvenile Rehabilitation Administration www1.dshs.wa.gov/jra

King County Juvenile Court www.kingcounty.gov/courts/JuvenileCourt.aspx

King County Mental Health Chemical Abuse and Dependency Services,
www.kingcounty.gov/healthServices/MHSA.aspx

Office of the Superintendent of Public Instruction www.k12.wa.us

Puget Sound Educational Service District www.psesd.org/

TeamChild www.teamchild.org

Washington State Court Appointed Special Advocate www.washingtonstatecasa.org

National Juvenile Justice Initiatives

Breakthrough Series Collaborative <http://cjjr.georgetown.edu/CPTBreakthrough.html>

Juvenile Detention Alternatives Initiative (JDAI)

www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx

Models for Change www.modelsforchange.net/

Reclaiming Futures www.reclaimingfutures.org/

Information Sharing Guides

In Brief, Information Sharing and Confidentiality. Jones, B., Shorter, A., and Stapleton, T., The Center for Juvenile and Criminal Justice, 2002.

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Information Sharing, A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs. Bussiere, A., English, A., Teare, C., National Center for Youth Law & The ABA Center on Children and the Law, 1997.

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Guidelines For Juvenile Information Sharing. Mankey, J., Baca, P., Rondenell, S., Webb, M. & McHugh, D., Washington D.C.: Office of Juvenile Justice and Delinquency Prevention, 2006.

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Helping Foster Children Achieve Educational Stability and Success: A Field Guide for Information Sharing. Bradley, S., Helgren, P., Lee, A., and Lichtenberg, L., Olympia, WA, Department of Social and Health Services, 2004.

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Casey Family Programs

King County Department of Adult and Juvenile Detention

King County Department of Community and Human Services

King County Prosecuting Attorney's Office

King County Superior Court

Puget Sound Educational Service District

Washington State Attorney General's Office

**Washington State Department of Social and Health Services,
Children's Administration, Region 4**

**Washington State Department of Social and Health Services,
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