

NHSDC Vision:

The National Human Services Data Consortium (NHSDC) drives public policy in both directions (bottom up and top down) and facilitates human services delivery improvements. The NHSDC Board of Directors is a diverse group of individuals with a variety of perspectives on issues related to collaborative data systems. Board members serve as individual appointees regardless of their organizational affiliation.

NHSDC Priorities:

- To influence policy
- To create a bridge across services
- To be a utility for consumers and organizations
- To maintain a shared set of underlying values to guide our work
- To address the issue of privacy standards as they are affected by new technology
- To continue to drive the marketplace by developing and implementing best practices

NHSDC Core Beliefs:

- NHSDC believes in the importance of quality data that is: (1) scientific and humanistic; (2) valid and reliable; and (3) appropriate for evaluation and other uses
- NHSDC understands the critical nature of consumer protection vs. utility
- We utilize the collaborative work model for decision making and leadership
- The desire to end homelessness is a driving force in our work
- Being ethical and respectful is mandatory in the use of client-level data

NHSDC Role in this Lunch and Learn:

- NHSDC is not giving legal advice during this presentation.
- No member of the NHSDC Board of Directors is licensed to practice law in the State of Minnesota.
- We may share some legal information, but we have not conducted any analysis of the law as it applies to any specific situation you may encounter.

Data Use & Retention Policies

NHSDC Recommendations:

Demands by the federal government, through statutory or regulatory authority, or state and local interlocutors, could leverage a variety of incentives to create substantial pressure on organizations to improperly disclose data collected under a promise of confidentiality.

All stewards of data collected and disseminated at the local, state, and federal levels should carefully consider if any vulnerability created by maintaining client data is sufficiently balanced by the services provided based on that data.

Should Data be Retained?

Communities may want to consider the following factors to inform their decision:

1. Why is the information collected?
2. Does the information benefit the household or individual enrolled in the service?
3. If the household's life/safety is at risk, does the custodian of the records have sufficient authority to hash, remove, archive, or destroy a data element not required by statutory or grant obligations?
4. Has the organization that owns the system discussed and determined a course of action for any resulting legal action?

Who Should Initiate the Dialogue?

Communities have different views:

- In some communities, nonprofit service providers prefer to defer to government agencies to outline policies.
- In other communities, nonprofit service providers who are responsible to gather and/or store data view themselves as the primary players to discuss the value of data collected.
 - They recognize that more data is not always better.
 - They ask “Why do we need this information?”

How Communities Can Lead

How do you guide the conversation?

1. Ensure that you have clear community policies that outline the circumstances under which data should be gathered and used.
 - These communities have found that having pre-existing policies that were developed in open, transparent ways make potentially difficult discussions much easier.
2. Establish professional norms.
 - Adopt standards of care that all case managers follow when interacting with clients.

Can you be compelled to share data?

- In the normal course of things, communities typically have policies or protocols in place to protect client information.
- However, agencies that collect or retain information CAN be compelled to share under some circumstances, including:
 - A valid warrant
 - A valid court order

What to do if presented with a warrant or court order?

- If the warrant or order is valid, you will have to comply.
- That being said, you have the right to carefully review a warrant or court order to confirm it is valid.
- In addition, you do not have to do anything more than is required in the warrant/order

Before you share anything, ask your attorney to review warrants/orders to confirm they are valid and to help you limit disclosure to the minimum necessary.

What if law enforcement is seeking a suspect, fugitive, or missing person?

- If law enforcement officers do not have a warrant, you cannot be compelled to share.
- You can consult your attorney to conduct a privacy analysis to determine whether disclosure is appropriate.

The key is to be prepared! Discuss these scenarios with your attorneys in advance so that the decision process can be swiftly implemented.

Questions?