

Getting Criminal Justice and Health Information Exchange Off the Ground: The Role of Counties

By Maeghan Gilmore, MPH, National Association of Counties

The successful integration of health information technology (HIT) into the nation's 3,300 jails is largely dependent on county governments as the landlords for the majority of these facilities. The counties hold the purse strings for the funds needed to plan, implement, and maintain correctional HIT initiatives, and they set the rules for how such initiatives may proceed.

Currently there is very little use of HIT in jails, but that may be about to change. It is estimated that, starting in 2014, under the Patient Protection and Affordable Act (PPACA), 16 million to 17 million people will come newly eligible for and enroll in Medicaid and the Children's Health Insurance Program (CHIP), while another 20 million to 23 million people will acquire coverage through new state health insurance exchanges. Many individuals who have cycled in and out of local jails will likely qualify for Medicaid. In addition, high rates of complex health problems among this population—including mental illness and substance abuse—often contribute to behaviors that lead to criminal justice involvement.

Given that 90 percent of people entering jail lack health insurance, county governments bear almost all the costs of health care provided in county-run jails. Starting in 2014, the PPACA creates the opportunity to substantially shift the costs of care for newly eligible Medicaid enrollees to the federal government. In addition, through the PPACA, many of these people may have access to mental health and chemical dependency treatment for the first time, which may result in substantial improvement in their health, and eventually reduce costs for the criminal justice system as well. Finally, increased access

to Medicaid coverage likely will increase the use of health care services in the community, which may improve the health of justice-involved individuals prior to arrest, reducing their health care needs while in jail.

Thus, counties now have strong incentives to create linkages between jails and community health care providers in order to best leverage the opportunities created by the PPACA. HIT can help establish these linkages through electronic health record (EHR) systems that support bi-directional information exchange and community, county, state, and regional health information exchanges (HIEs).

Making these types of initiatives succeed often requires bringing together various public agencies, providers, and others that are used to working in "silos" and may have reservations about working together. These may include but are not limited to the county information technology (IT) department, the county sheriff, the county counsel, the probation department, the public health department, and behavioral treatment providers. These stakeholders have access to different types of information as well as different information needs and different concerns about information-sharing.

Because of their wide oversight authority and responsibilities, county governments can supply the impetus and the vision needed to get stakeholders to the table, put aside their differences, and unite around a common goal. Without this kind of "big picture" leadership, many initiatives simply won't get off the ground.

Table 1 provides examples of the many stakeholders that may be involved in an integrated information exchange, as well as their potential interests and roles in this type of initiative.



Table 1. Potential Stakeholders in Integrated Information Exchanges**County IT Departments**

Most counties have their own IT departments that provide varying levels of service and coordination for technology infrastructure and integration, applications development and use, acquisition of new hardware and software products, and user training and support. The county IT department is a likely participant, therefore, in any initiative to bring HIT into a county-run jail, to provide advice on planning and design, set budget parameters, identify purchase specifications, develop requests for proposals, and help with implementation and maintenance. In an information exchange initiative, the IT department will be instrumental in determining how to make the exchange work, especially when the participating entities have different information systems that do not “talk” to each other.

County Counsel

The office of county counsel renders civil legal services to the county. This includes representing and advising the officers and employees of the county in matters of civil concern. County counsel attorneys perform a wide variety of tasks, including preparing and reviewing contracts and legal agreements for the county, working to ensure that the county is in full compliance with the law, and minimizing the county’s exposure to lawsuits.

The introduction of HIT to a county jail raises specific issues for county counsel, including compliance with the patient privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA), as well as with state laws, rules, and regulations, which may be and usually are stricter than HIPAA. Protection of patient privacy is a primary concern, particularly with respect to individuals with mental health and co-occurring substance use disorders. Counties should not view privacy laws and regulations as barriers to implementing HIT in jails, but they do need to examine them fully, determine whether jails are covered entities—generally they are not, under HIPAA—and decide how meet the laws and regulations that apply within their jurisdictions.

If a county is establishing an information exchange, county counsel will be called upon to review all information-sharing agreements that define how information will be shared, with whom, and under what circumstances.

Behavioral Health

Behavioral health providers generally have more experience with justice-involved populations than other community health care providers. Some actually provide services in jails. Others have worked with the courts to create pathways for getting justice-involved individuals into treatment. Mental health and drug courts are examples of these collaborations.

Medicaid expansion in 2014 will intensify pressure to collaborate. Research suggests that the subset of the expansion population with jail involvement is likely to include many very low-income, non-working adults with chronic health needs and a high prevalence of mental illness and chemical dependency. These findings have broad implications for program budgeting, staff recruitment, professional training programs, electronic medical records, and integrated system design.

Exchange of electronic health information between the criminal justice and behavioral health treatment systems will be critical to meeting these new challenges. In addition, integrated multi-agency systems will be needed to evaluate both public safety and health care outcomes and support appropriate public investments.

Probation

In some ways, the probation department is the gatekeeper for the county jail (although not all probation departments are administered at the county level). Probation officers make pre-sentence recommendations that many judges take very seriously, thus weighing heavily in decisions as to who goes to prison, who is released on probation, and who is diverted into drug courts or other forms of supervised release. Although it is not a function of probation officers to link justice-involved individuals to health care services, because of the interaction that probation officers have with these individuals and their connections with the service community, they can play an important role in ensuring that these persons get health care coverage and appropriate treatment for their problems.

Jails

The primary purpose of the jail is to maintain the security of individuals who are awaiting trial. Although many jails have administrative information systems to support their operations, very few use any form of HIT.

As 2014 approaches, the incentives for jails to implement HIT increase. It will be in their interest—and in the county’s interest—to ensure that detainees who are eligible for Medicaid coverage actually enroll in a plan. It will also be in their interest to coordinate care for the justice-involved population with community providers, particularly mental health and substance abuse treatment providers.

Integrating electronic information systems outside the jail walls to include partner health centers in the community would support care coordination. In many cases, jails and community health centers are treating the same patients. Continuity of care between these settings requires continuity of information.

There are costs and benefits associated with HIT implementation in jails. Some counties are beginning to understand that there is a business case for correctional HIT, and some jails—especially the larger ones—are exploring how HIT could help them reduce their health care costs. In addition, several national correctional health care providers are developing and implementing HIT solutions on behalf of their clients.

County Health Services

Public health agencies and county safety net providers are struggling to address the needs of very sick individuals who make up only a small percentage of the general population but incur huge costs on the community, often through repeat emergency room (ER) admissions. Frequently these individuals are uninsured and have chronic and behavioral health problems, including HIV, hepatitis C, tuberculosis, bi-polar disorder, and drug or alcohol addiction. There is a significant overlap between this high-need population and the justice-involved population. Many of these same individuals who repeatedly land in the ER of the county hospital are also “frequent flyers” at the county jail. Yet there is seldom any linkage between the health care provided in these two settings. By helping to establish that link, HIT could support better care coordination for these high-need, justice-involved individuals, contributing to improvements in both public health and public safety.

In addition, Medicaid expansion 2014 will dramatically increase the demands on the public health system and on community health care providers. HIT, and especially health information exchange among safety net providers, will be essential to meeting these demands.

How can a county bring together such disparate entities to collaborate on a costly, time-consuming enterprise that may not be at the top of anyone's agenda? The following case study describes how Salt Lake County, Utah, brought not only vision and leadership but a sense of common purpose and urgency to developing an integrated information exchange that includes the criminal justice system and the 35 behavioral treatment providers that contract with the county.

The Salt Lake County Experience

Many electronic information exchanges begin by focusing on the technology needed to make the enterprise work. But the experience of Salt Lake County suggests that, when it comes to bringing divergent entities together to share information electronically, the "human" issues—such as leadership, buy-in, and trust—make for a better starting point.

To be sure, the nuts-and-bolts determinations as to which software to purchase, where the information infrastructure is lacking, and how to ensure data security are important. But it turns out that, frequently, the hardest part of an information exchange is getting people to agree to share information, according to Joseph Wheeler, of MTG Management Consultants in Seattle, which is working with Salt Lake County.

The county is developing an integrated justice information system (IJIS) that will serve as a data hub, pulling in information from various points along the criminal justice continuum and sharing it on a "right-to-know" basis with authorized subscribers. Among the participants are the county's 35 behavioral treatment agencies, making Salt Lake County's initiative different from most efforts to integrate justice-related information at the county level. Although a substantial proportion of people with criminal justice involvement also have disorders that require behavioral treatment, typically there is little automated information-sharing between criminal justice and human service agencies.

But in planning its IJIS, Salt Lake County officials decided that the behavioral treatment component had

to be included. According to Patrick Fleming, director of the county's Division of Behavioral Health Services, 70 percent to 90 percent of people in the jail have mental health or substance abuse problems. Without access to behavioral treatment information, the county could not get a complete picture of what was happening with this population.

With criminal justice and human services costs increasing at about 10 percent a year, the primary goal of the IJIS was to provide that picture. That means not only bringing together two disparate systems but also getting them to share potentially sensitive data. On the criminal justice side, data-sharing concerns focus on possible compromises to public safety and law enforcement. Treatment providers, on the other hand, want to ensure that their clients' privacy is maintained and that they are in compliance with federal and state laws regarding data privacy and security.

Both sides need data from each other to do their jobs optimally. For example, jails can provide better security, programming, and health care if they know that an incarcerated person has a history of mental illness treatment in the community. And treatment providers can maintain continuity of care more effectively if they are informed when their clients are arrested and where they are detained.

There were good reasons for the justice and treatment communities to work together. By taking a "holistic" approach to costs, county leadership provided the driving force that brought the two systems together, Wheeler said. "They had an appreciation for the entire cost of the social services and criminal justice systems." With that in mind, county officials decided to explore alternatives to incarceration that could help reduce costs incurred by the justice-involved population. Behavioral treatment emerged as one of those alternatives.

Mark Crockett, a county council member at the time with experience in business intelligence, became the initial point person for the project. He brought together representatives from the district attorney's office, the public defenders association, the department of human

services, and law enforcement. His message: *We all need to work together because this is in the best interests of the county as a whole. What do we need to do, and what are the obstacles that stand in our way?*

In that way, county officials identified potential barriers and concerns regarding information exchange. They involved legal counsel early in the process to analyze existing laws and regulations that could affect the project. In addition, they worked with their consultants to produce a development plan for a system that would address the concerns of all the stakeholders.

That IJIS plan includes a subscription-and-notification service platform. Under this plan, the IJIS server will act as an information intermediary, notifying authorized subscribers when it receives information of significance to them. For example, a substance abuse treatment provider would receive notification of publication to the IJIS server of the lists of all arrests within the county, as well as bookings into and releases from the jail. That information is all public, but it would be difficult—if not impossible—for a provider to assemble and route the information independently on a regular, timely basis. Upon learning that a client has just been arrested or released from jail, the provider can decide what action to take in the client's interest.

For now, the IJIS is not designed to export data from treatment providers to criminal justice subscribers, although it would not be difficult to add that service, according to Wheeler. Each client receiving behavioral treatment would be asked to sign a time-limited, revocable waiver allowing specific entities to receive his or her treatment information for a defined period. The IJIS would record those waivers, creating an automated mechanism for sifting and publishing authorized information.

Wheeler said that Salt Lake County is working its way toward bi-directional information exchange. The first step—exporting criminal justice information to the treatment community—is designed “to show treatment providers that good things can happen when you share information securely,” he said.

Fleming said that bi-directional exchange is part of his vision for the IJIS. “If it's done properly, it can really help clients get into services,” he said. “It can shorten length of stay in jails, and it helps line clients up for the whole package of services that we can provide on the outside and move them into recovery and even the job market more quickly.”

He noted that the state Department of Workforce Services already determines Medicaid eligibility for people booked into the jail. Eventually, he hopes to feed Medicaid data and information from the new health insurance exchanges into the IJIS. He envisions an information continuum in which it's possible to log onto the IJIS and determine whether an individual is eligible for Medicaid; enroll the individual online; follow the individual's interactions with the court system, treatment community, and eventually the health insurance exchange; and receive notification if the individual suffers a relapse and needs to go back into treatment.

The county spent two years planning the IJIS with its stakeholders, developing specifications for the system and issuing a request for proposals from software developers. Fleming said that Salt Lake County plans to make its lessons learned—including the development plan, logic model, and software coding—available at no cost to other counties. “We shouldn't be spending taxpayer dollars over and over again to do this,” he said.

All told, Fleming estimated that the county will have invested approximately \$1.5 million in the IJIS by the time it is completed. He believes the investment will pay off. What county officials want, he said, are good, comprehensive, and integrated data to support policy analysis and decision-making. “That was the promise.”

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