



Center for Technology in Government

What Rules Govern the Use of Information?

Center for Technology in Government
University at Albany, SUNY
1535 Western Avenue
Albany, NY 12203
Phone: (518) 442-3892
Fax: (518) 442-3886
Email: info@ctg.albany.edu
<http://www.ctg.albany.edu>

Abstract

What Rules Govern the Use of Information?

October 1999

The Center for Technology in Government (CTG), through the Using Information in Government (UIG) Program, has worked for more than a year with New York State agency project teams and partners from the public, private, and academic sectors to identify benefits and strategies for integrating and using information for program planning, evaluation, and decision making. The policy, management, and technology issues identified through our work with the agency teams were shared with the public in a series of seminars focused on increasing the value of existing information to government programs. This report summarizes the presentations given at the third session of the Using Information in Government Seminar Series, "What Rules Govern the Use of Information?" which was held on October 5, 1999 at the University at Albany.

Summary

The Center for Technology in Government (CTG), through the Using Information in Government (UIG) Program, has worked for more than a year with New York State agency project teams and partners from the public, private, and academic sectors to identify benefits and strategies for integrating and using information for program planning, evaluation, and decision making. The policy, management, and technology issues identified through our work with the agency teams are being shared with the public in a series of seminars focused on increasing the value of existing information to government programs. This report summarizes the presentations given at the third session of the **Using Information in Government Seminar Series, "What Rules Govern the Use of Information?"** which was held on October 5, 1999 at the **University at Albany**.

This seminar addressed the use of government information and the policies that govern that use. Comprehensive information use policies are necessary to guide how, why, when, and by whom information is used in organizations. This session addressed information use issues such as ownership, stewardship, liability, privacy, and confidentiality as they relate to internal, cross agency, and public use of information. Project agencies and invited speakers identified information sharing issues and discussed their experiences using relevant New York State policies. The seminar included three content presentations and a panel discussion.

- Meghan Cook, CTG project management specialist, reviewed the genesis of the Seminar Series and outlined the day's agenda.
- Sharon Dawes, CTG director, set the stage for the presentation by outlining "Information Use Principles."
- Daniel Foro, director of the Office of Systems at the NYS Division of Criminal Justice Services, discussed his agency's experiences with information policies in "Use of Criminal History Information."
- Robert Dawes, assistant director, and Jane Wagner, social services representative II, of the Bureau of Housing Services at the NYS Office of Temporary and Disability Assistance shared their experiences with the "Homeless Information Management System."
- The seminar concluded with a panel discussion featuring the four content presenters.

A number of important points were made during the seminar, including:

- Common goals can be achieved when using the principles of stewardship and usefulness to govern the regulation, collection, production, provision, and use of information by public sector agencies.
- Detailed information use and dissemination agreements are necessary to specify who can access what information under which conditions.
- Sound records management policies should be devised and employed.

- Include partners in the development of rules about the collection and accessibility of data.

What Rules Govern the Use of Information?

The first round of the Using Information in Government (UIG) Program, which investigates how New York State government agencies can make the best use of information to carry out their missions, yielded some practical lessons for government program and information technology (IT) managers. CTG created the **UIG Seminar Series** as a way to share those lessons with our government and IT colleagues. The Seminar Series kicked off in February with a session on " Dealing with Data " and continued in May with " Information Use Tools and Skill Sets ." The third session, "**What Rules Govern the Use of Information,**" was held Oct. 5 and the last seminar will take place on Feb. 9, 2000 and focus on " Two Years of Lessons Learned ."

The UIG program began in the summer of 1997 when a set of issues was identified through meetings with the information resource management and program communities, a survey conducted by the **NYS Forum for Information Resource Management**, and recommendations from the CTG Standing Committee. CTG then held a kick off meeting to identify the problems public managers have in using government information to do their jobs. Some of those information use issues include:

- Lack of incentives to share
- Lack of understanding of the value of integrating data and using it to support decision making and planning
- Lack of understanding of the technical, human, and organizational requirements
- Lack of understanding of the real potential of the technology

From the information gathered, CTG developed **specific objectives in the UIG Program** to address these issues:

- Recommend policies or policy templates to guide public officials in their use of government information.
- Develop and assess data standards, inventories, and quality assurance tools.
- Develop and assess cost-benefit models and other measures of information value.
- Specify the information use skills necessary for government professionals and recommend ways to acquire them.
- Assess the cost-effectiveness of various technical tools and techniques.
- Develop collaborative and collective resources for data users.

The UIG investigations with New York state and local agencies are divided into two rounds; the first concluded in spring 1999 and the second will finish in the spring of 2000.

Round one project agencies were:

- Office of the NYS Comptroller, Division of Municipal Affairs
- Central New York Psychiatric Center
- NYS Office of Temporary and Disability Assistance, Bureau of Housing Services

Round two project agencies are:

- NYS Office of Real Property Services
- Office of the NYS Comptroller
- NYS Department of Transportation
- New York City Department of Information Technology and Telecommunications

When CTG began the UIG Program, we knew we'd encounter the following issues, which were demonstrated throughout the UIG projects.

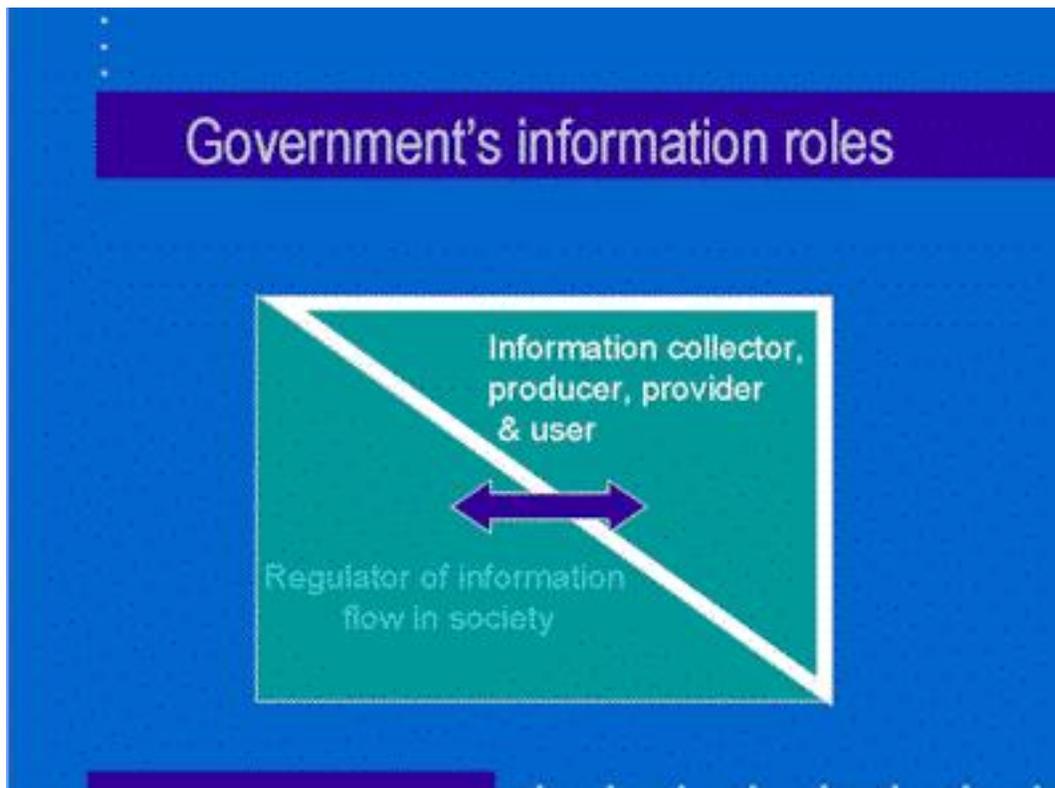
- The evolving policy environment requires greater sharing of information among and within government agencies.
- The evolving technology environment makes it possible to bring together and share information in

- unprecedented ways.
- There are legal, regulatory, and political restraints on information sharing at all levels of government.
- Information rules may help identify such areas of concern as ownership or authority to release information, responsibility for stewardship of information, access to information vs. privacy rights, and fees vs. free use of information.

Information Use Principles

Government's roles as a regulator, collector, producer, provider, and user of information are governed by the principles of stewardship and usefulness which result in agencies working together to achieve common goals.

Slide 1



In its role as regulator, the government is a critical player in assuring the free flow of information in society. [Slide 1] The democratic principles of information - right of free expression, right to profit from invention, right of public access to government records, right to protection of personally identifiable and sensitive information - play an important part in this system. These basic democratic principles of access, proprietary rights, and privacy are in constant conflict with information rights. Thus, we establish public information policies in an attempt to balance these conflicts.

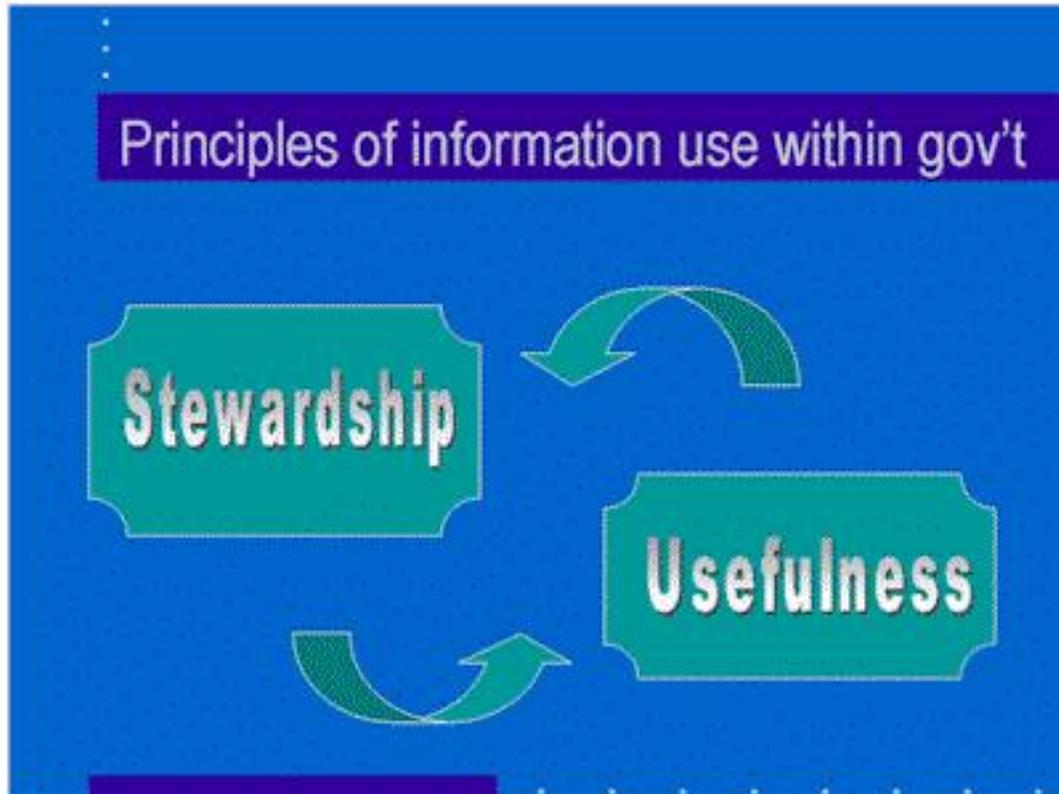
For example:

- One information right can conflict with another - These types of conflicts are illustrated by the **Reporters Committee for Freedom of the Press vs. the United States Department of Justice** and the fair use provisions of the copyright act.
- An information right can conflict with another policy concern - An example of this is the **ACLU et al. vs. Reno case** on the **Communication Decency Act** in which the right to full use of the content of the World Wide Web conflicts with the obligation to protect our children. The **Roe vs. Wade Supreme Court case** is another example.

- A dispute over how to implement or set the boundaries of an information right - These conflicts are represented by such questions as how to achieve the universal service goals of the **Telecommunications Act** and what work should or should not be funded by the **National Endowment for the Arts**.

In its role as information collector, producer, provider, and user, two other policy principles apply: stewardship and usefulness. Both are important and neither should dominate [Slide 2].

Slide 2



Stewardship is evidenced in every public sector agency that works to protect the accuracy and integrity of the information it collects and disseminates. This is a conservative principle that addresses:

- Treatment of government information as a fiduciary responsibility of all agencies which are managers, not owners, of information
- Data collection decisions and methods
- Data definition, quality, and integrity
- Information and system security
- Confidentiality protections
- Records management and disposition

We see stewardship in action every day in **New York State government**, in such instances as **privacy laws, technology policies** that deal with guarding personal identifiers and protecting systems and databases from misuse, **privacy notices** on forms and Web sites, **data dictionaries** that define data in very specific ways, and retention schedules that dictate the **value and longevity of records**.

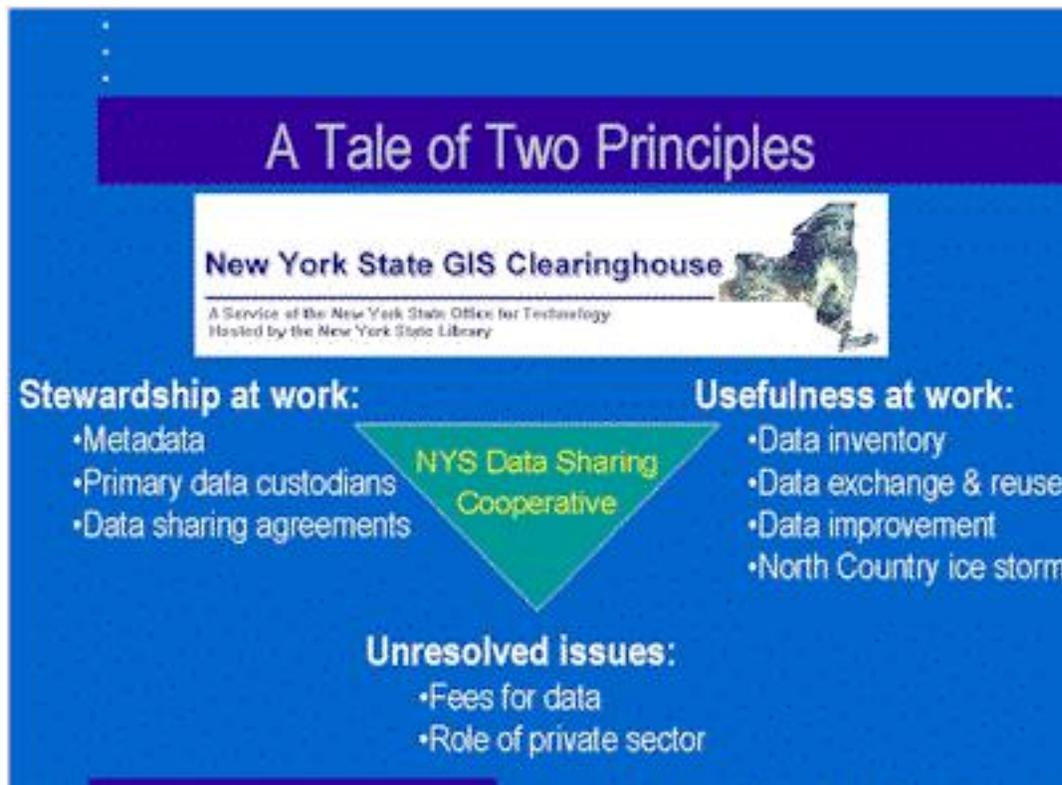
The other principle of information use within government is that of usefulness. This is an expansive principle that focuses on the value of information as an asset. Usefulness addresses such issues as:

- Information as an asset of government and its value for primary and secondary uses today and in the future

- Information sharing within and between government and other organizations
- Information-handling skills of public employees
- Information as an agent of change in programs, services, and the relationship between government and citizens

Like stewardship, usefulness is constantly in action within government. Citizens and governments need information for a variety of reasons and use it for a number of purposes. Some examples of the usefulness principle are: the technology policy encouraging data sharing between government agencies, digital photos on your driver's license that improve customer service, the **State Comptroller's Web site** where citizens can find unclaimed funds owed to them, and the **New York City Police Department's COMPSTAT** system that uses incident reports to put officers in areas that have the most crimes.

Slide 3



The **NYS Data Sharing Cooperative**, a two-year-old initiative that is part of the **NYS GIS Coordination Program**, is a good example of how stewardship and usefulness work together to help agencies deal with tough problems [Slide 3]. The Cooperative's membership includes more than 100 organizations - including New York state and local agencies, several non profit organizations, and agencies from other states - that banded together to acquire group benefits. Stewardship issues at work in the Cooperative include compiling metadata, appointing primary data custodians, and establishing a standard data sharing agreement. The usefulness of the Cooperative is evidenced in the data inventory that ensures access to the information, data exchange and reuse policies that make it easy to contact other agencies and use their information, and data improvements that occur when other agencies add value to the information. The Cooperative also has some information use issues, like whether to charge fees for the use of data and the role of the private sector, that it is still resolving.

A prime example of the Data Sharing Cooperative's value is found in the actions of government agencies in the wake of the January 1998 ice storm that crippled New York's North Country. The storm affected 130,000 people and 1,800 farms, causing them to lose power, water, phone, and heat services for several days during the height of winter. Due to the Cooperative, agencies charged with helping people deal with

the effects of the storm were able to share information that enabled them to fulfill that mission. The GIS data helped the **Emergency Management Office** set up command centers; maps from the **Department of Transportation** were critical in getting the roads cleared of debris; the **Office of Real Property Services'** records helped determine the locations of farms that needed assistance; **Department of Health** information aided hospitals; **MapInfo Corporation** provided information that enabled the **National Guard** to make logistical arrangements. The success of this joint effort to serve those affected by the North Country ice storm was made possible by the Data Sharing Cooperative.

And while stewardship and usefulness are important, experience is also a crucial factor. It is agencies' experiences that tell them where problems will occur, what traditions to employ, and which unspoken rules to follow. Information use in government is guided by the interaction of stewardship and usefulness tied together with experience.

Use of Criminal History Information

The following presentation highlights an example of how information use rules are employed in an information-intensive government agency.

Information is a huge part of the NYS Department of Criminal Justice Systems' (DCJS) business. The Department maintains a criminal history database, identifies criminals through fingerprints, provides training for local criminal justice agencies, conducts criminal justice research, and administers grants. And all of these activities require managing, distributing, storing, and using copious amounts of data. The management of this information is complicated by the fact that New York is a "closed records" state in which specific authority is required for access to criminal history records for both criminal justice and other purposes. Criminal justice agencies have detailed use and dissemination agreements that specify who can access what information under which conditions.

The Department has 4.7 million criminal and non-criminal fingerprint-based records in its database. About 3.1 million of those records are about people who have committed crimes. The other 1.6 million records are about non-criminals, such as people who have applied for pistol permits and state employees who were fingerprinted because of their job requirements.

Due to the state's closed status, sealing and expungement laws restrict access to criminal history events. When a record is sealed, access to that record is prohibited. Sealing occurs in cases where criminal charges are dismissed or someone pleads guilty to a non-fingerprintable offense. About half of all criminal history events are sealed in New York. When a record is expunged, that record is completely destroyed. Expungement often occurs in juvenile cases. Sometimes the sealing and expungement laws conflict, which leads to inconsistent application of the regulations.

Rapsheets are information intensive and an important part of the decision making process for criminal justice officials. A rapsheet contains the complete record of an individual's criminal history and is used at several points during arrest, judicial, and custody processing. Rapsheets are used throughout the criminal justice process and they are increasingly being used for non-criminal justice purposes (such as background checks).

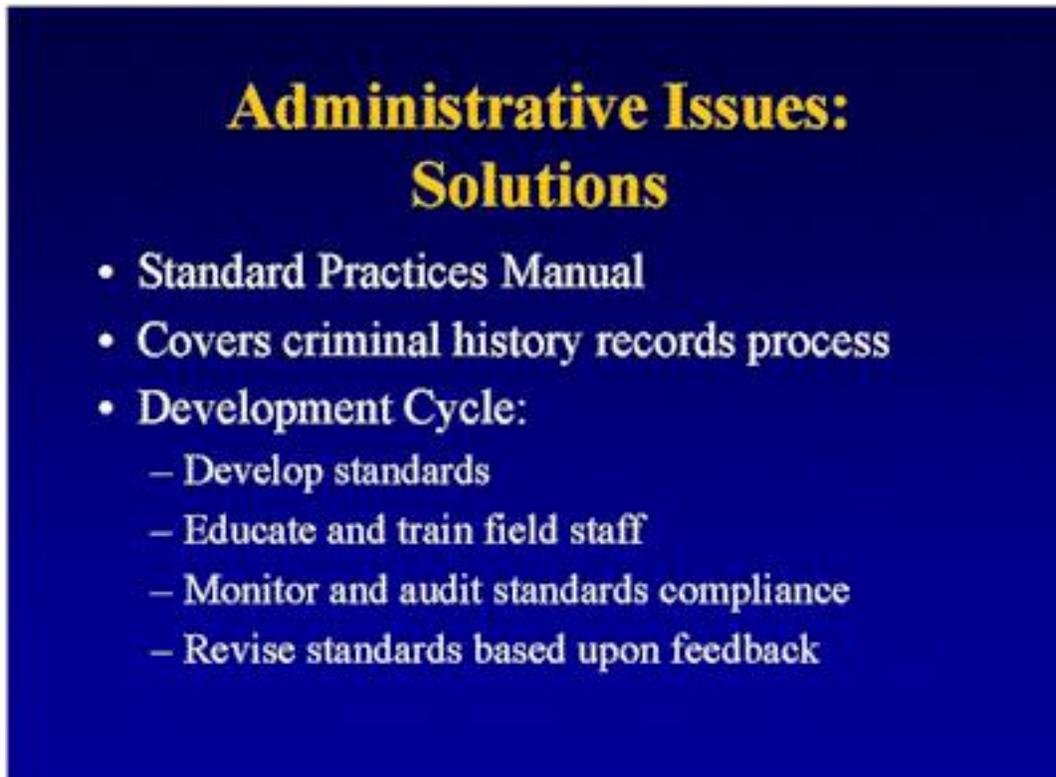
There are two ways DCJS can conduct searches of its database, by fingerprints and by name. In 1998, DCJS processed about 922,500 fingerprint cards on individuals and 1.22 million name search inquiries. The Department prefers to check by fingerprints, because it provides much more accurate identification.

While identification via fingerprints is the most reliable method, there are obstacles. When cases are sealed or expunged, the fingerprints are destroyed. This weakens the database's ability to accurately identify offenders and sets up the potential for misidentifications based on simple name searches. Without fingerprints, there is no way to correctly identify someone in the database with absolute certainty.

There are several administrative issues the Department deals with related to its criminal history database files. The failure of court agencies to submit case dispositions is credited to the lack of training on procedures and policies, the lack of personnel resources, and the lack of adequate software and hardware. The failure to fingerprint individuals or submit the fingerprint cards can be attributed to: the lack of training,

skill, and practice of taking fingerprints; police belief that the arrest will be sealed, so why bother submitting the prints; and the difficulty in fingerprinting suspects who are intoxicated. When fingerprint cards aren't submitted, it results in a series of actions: rapsheets aren't updated, searches aren't conducted against fingerprint files, wanted checks aren't done, hit notices aren't generated, and deported criminal alien notices aren't sent to arresting agencies. DCJS decided to develop a standard practices manual - which includes best practices, the criminal history records process, education and training programs, and compliance information to deal with these issues [Slide 4].

Slide 4



**Administrative Issues:
Solutions**

- **Standard Practices Manual**
- **Covers criminal history records process**
- **Development Cycle:**
 - **Develop standards**
 - **Educate and train field staff**
 - **Monitor and audit standards compliance**
 - **Revise standards based upon feedback**

One of the major technological hurdles is the lack of an efficient mechanism for delivering rapsheets to the courts

in time for arraignments and sentencing. This problem has several causes, including the length of time it takes to process and mail fingerprint cards and the failure to forward rapsheets to the courts. In order to solve the problem DCJS created Secure Services, a system that provides name search rapsheets that can be used for arraignments and sentencing hearings [Slide 5]. Rapsheets are now mailed directly to the courts, which is a quicker process. And, the Card Scan and Live Scan systems now in use also speed up the process of providing rapsheets at arraignments.

Slide 5

Technological Issues: Solutions

- **DCJS Secure Services (about 400 agencies)**
 - Provides name search rapsheet that can be used for arraignment/sentencing
- **Direct mailing of rapsheets to courts (more timely mechanism)**
- **Card Scan/Live Scan also expedites process to allow rapsheet for arraignment**

By employing sound records management policies and using technology to speed up certain processes, the Division of Criminal Justice Services is able to provide the information necessary for New York's criminal justice system to operate while complying with the state's "closed record" status.

Homeless Information Management System

The following description depicts an example of how information use issues and policies are handled by one New York State agency. Officials at the NYS Bureau of Housing Services (BHS) had a problem they needed to solve. The agency - which monitors, inspects, and certifies close to 120 shelters that house more than 30,000 homeless families and single adults in the state - needed a better way to evaluate the effectiveness of the services delivered in the shelters. After defining their business problem, determining their stakeholders, and developing a business case, the staff decided they would create a database system that could track the homeless population and enable them to evaluate programs. The name of this new system, which is in the prototype stage now, is the Homeless Information Management System (HIMS). BHS is working with CTG on this project.

The project goals emerged to include: collect the demographic and service program information about New York's homeless population; evaluate the effectiveness of the housing, job, education, health, child care, and other services provided to the homeless; use existing electronic data from several sources, including social service districts, shelter providers, and BHS; use the results to do program planning and measure the true impact of welfare reform [Slide 6].

Slide 6



The information needed to track the shelters' clients and services is housed in several locations. The local social service districts keep track of the programs in their geographic area. The shelter providers keep track of the demographic and service information about their clients. BHS has facts about where the shelters are located and who runs them, as well as budget information. Much of the information, from all sources, is in paper format. There are also several database systems in use. Collection and accessibility of the data were two big issues that had to be addressed.

The collection of information about homeless people is governed by a set of rules that include state laws and department regulations that require specific reporting mechanisms, and interagency memorandums of agreement that cover the exchange of information. BHS discovered a different reality when developing HIMS. The agency encountered problems related to people, systems, and finances.

Taking all of their issues into account, the BHS team worked to gain the trust of the shelter providers and local social service districts and move toward their goal of creating the HIMS system. The entire group came together

to mutually develop a set of goals and working environments in which people were comfortable. The participants jointly developed a set of preliminary rules, including standard service and data definitions and an understanding of how personal data would be protected, which were used for the purposes of the prototype development.

By making the development of the HIMS system an open, collaborative effort, the agency helped ensure the participation of required organizations. The group created rules to govern the collection and accessibility of the data.

Balancing Accessibility with Confidentiality

A series of questions posed by the moderator and audience provided the framework for a lively discussion of the challenge of balancing accessibility with confidentiality.

- Describe the confidentiality requirements mandated by your agencies and how those requirements have affected information sharing initiatives.
- At times, the state's closed records policy hinders criminal justice agencies' ability to deal with cases in the most effective and efficient manner.
- Social service agencies have specific rules that protect clients' confidential information. These issues are still being worked on in the Homeless Information
- State agencies often need access to data in other agency systems, but there is no uniform policy on information sharing in New York State. One of the major blocks in trying to share information between organizations is that the rules are mandated by higher state and federal authorities. The rules should be written by program officials and policy makers who have in-depth knowledge of the specific needs and concerns of the policy areas.

State your fears about information sharing among agencies.

- When developing HIMS, the BHS team encountered homeless shelter service providers that thought they'd be unfavorably compared to one another if they contributed their information to the system. The agency overcame this hurdle by making the providers part of the process and assuring them, through their active participation, that they would have a voice in the development and outcome of the system.
- Agencies need to clearly state how they'll share and distribute data. Rules need to be agency-wide in order to ensure their uniform application.
- Some agencies fear their data will be misunderstood if it is used out of context and that inaccurate data will be passed on without being corrected.
- Another fear is that agencies won't have control over how individual employees handle sensitive data.

What rights do government contractors have to keep their information confidential from the state?

- The state has no interest in knowing some of their information, while other information has to be shared with the state because the organization receives money from the state. If private sector organizations accept state funding, then they have to accept the information sharing rules that go along with it.

What measures are in place to ensure that individuals from both internal and external entities use information responsibly?

- There are an abundance of federal and state requirements, and agencies are audited by outside authorities.
- Rules designating who has access to what data under which circumstances are crucial.
- Audit trails are an effective way to determine if data is being used for legitimate reasons.
- Auditing is also useful for monitoring who is looking at certain information.

What legislation needs to be passed in order to comply with agency privacy agreements?

- Legislation needs to be more comprehensive, broad-based, and proactive.
- The legislation often comes after data has been used or misused resulting in privacy concerns. In order for it to be fully effective, the legislation should be passed earlier in the process to avoid such problems.

Speaker Contact Information

Sharon Dawes

Director

Center for Technology in Government

1535 Western Avenue, Albany, NY 12203

Phone: 518-442-3892

Fax: 518-442-3886

Web site: www.ctg.albany.edu

Meghan Cook

Project Management Specialist

Center for Technology in Government

1535 Western Avenue, Albany, NY 12203

Phone: 518-442-3892

Fax: 518-442-3886

Web site: www.ctg.albany.edu

Daniel Foro

Director, Office of Systems

NYS Division of Criminal Justice Services 4 Tower Place, Albany, NY 12203

Phone: 518-457-8724

Fax: 518-485-1237

Web site: www.criminaljustice.state.ny.us

Robert Dawes

Assistant Director, Bureau of Housing Services

NYS Office of Temporary and Disability Assistance

40 North Pearl Street, Floor 8B, Albany, NY 12243

Phone: 518-486-7732

Fax: 518-474-7058

Web site: www.otda.state.ny.us

Jane Wagner

Homeless Services Representative II, Bureau of Housing Services

NYS Office of Temporary and Disability Assistance

40 North Pearl Street, Floor 8B, Albany, NY 12243

Phone: 518-402-3599

Fax: 518-474-7058

Web site: www.otda.state.ny.us