

Incident Management Community of Practice Meeting Minutes 10/18/2011



Opening remarks: Helene DeSanto

- Helene welcomed the participants and thanked them for attending the meeting. She acknowledged that the past few months have been busy and that a lot of work has been focused on the Commissioner's reform agenda. OPWDD has a strong commitment to protecting the individuals receiving services in its system. OPWDD is putting forward a policy of ensuring that people have positive environments and relationships, which is the hallmark of all of the initiatives that the Commissioner has put forward.
- OPWDD is embarking on a culture change. The reform initiatives are pieces of a bigger picture, a vision of OPWDD's future. The Commissioner's culture change agenda sets the platform for the kind of outcomes that OPWDD and voluntary providers are all interested in. Part of the challenge of those on the front lines is to carry this vision forward and to think about what the culture change agenda means to a broader culture that OPWDD is trying to build within its system. Eventually, this new culture will be so ingrained in the OPWDD system that the reform initiatives would be considered natural responses in addressing issues.
- The Commissioner's message about culture reform is centered on "collective mindfulness"- a concept that means everyone is working on a particular endeavor and is thinking on the same page. It promotes risk identification/avoidance and a culture of safety, which is the underpinning of a broader culture change. The concept of "collective mindfulness" has been used in industries with high risk, such as the airline industry, in order to reduce untoward events and promote better outcomes.
- Helene acknowledged that the reform initiatives fall on the shoulders of the frontline people and that their day to day effort makes these initiatives happen.

Format of meeting: Leslie Fuld

- Leslie described the format of the meeting.





- The agenda items were selected based on questions sent in from providers. Providers should contact their DDSO incident coordinators with any additional questions. The DDSOs are the main point of contact for voluntary providers.

Role of SCIR: Barbara Brundage

- Barbara Brundage is the Director of the Regulatory Affairs Unit and the Chair of the OPWDD Statewide Committee on Incident Review (SCIR). She acknowledged the hard work and effort of OPWDD employees and voluntary providers in the implementation of the reform initiatives. The frontline people are the unsung heroes (so to speak) of these initiatives and their efforts are greatly appreciated.
- SCIR is a committee that has been in existence for at least fifteen years. The Committee serves as an advisor to the Commissioner. SCIR works to foster greater consistency in the OPWDD system. Some of the major efforts that the Committee has undertaken include the development and maintenance of *The Part 624 Handbook* and resources on the incident management webpage on OPWDD's website.
- It is important to note that due to the fast pace of the reform initiatives, the Handbook is not current and cannot be relied on by itself. Providers must reference the various other policy directives on the incident management webpage. SCIR encourages providers to check this page frequently. Further, policy directives are disseminated to the executive directors, DDSO directors, and DDSO incident coordinators. However, it is recognized that this may not always ensure that information gets into the hands of all appropriate parties.
- Barbara announced that going forward SCIR plans to host the Incident Management Community of Practice meetings with voluntary providers on an annual basis. SCIR hosts these meetings with DDSOs on a quarterly basis.

OPWDD Incident Management Unit: Leslie Fuld

- Leslie Fuld introduced herself as the Director of OPWDD's Incident Management Unit. In addition to Leslie, this unit consists of an Incident Report and Management Application (IRMA) coordinator and five regional incident compliance officers who will oversee the DDSOs in each of their regions.





- OPWDD’s Incident Management Unit collects questions from providers and plans to create an FAQ page devoted to IRMA related issues. The unit is also in the process of updating the existing IRMA user manual to be a useful working tool, much like *The Part 624 Handbook*.

IRMA:

Purpose & benefits: Richard Monck

- OPWDD has a responsibility to protect and safeguard individuals and therefore it was felt that there was a need for a centralized application for reporting incidents/allegations of abuse.
- Richard indicated that the DDSOs have a dual role as a provider of services and as an oversight entity. The DDSOs have been entering incidents into IRMA for state-operated services and voluntary-operated providers for some time. Over time, DDSO employees have become more adept at using IRMA and prefer it over the *Form OPWDD 147*.
- There are forty standard reports that exist in IRMA.
 - There is a Central Office report which provides the status on serious reportable incidents and allegations of abuse, where they occurred and the outcomes. Providers were previously required to send this report to Central Office; however, now that it can be generated from IRMA, Central Office is no longer contacting providers for this data.
 - Information can be queried from IRMA and formatted into a number of different reports (e.g. trends or patterns, incidents related to a specific individual).
 - There are also crystal reports or ad hoc reports that the DDSOs can create for providers. Anytime a crystal report is developed, it is stored in a library of reports so that this report doesn’t have to be recreated.
- Information entered into IRMA can be viewed in real time. If data is entered completely, providers will no longer be receiving routine requests for additional information pertaining to an incident/allegation of abuse.
- In the near future, IRMA will be able to interface with alternative (other) applications. This will eliminate the need for providers who use these applications to complete duplicate entry into IRMA. (See



the minutes under the file upload agenda topic below for an update on the file upload.)



Required format for reporting: Barbara Brundage

- Providers were trained in IRMA over the summer. An Administrative Memorandum (ADM) was recently issued by OPWDD which contains detailed requirements for reporting information through IRMA. The ADM is effective November 1, 2011. It will be posted on the incident management webpage in the near future.

Data integrity: Leslie Fuld

- OPWDD’s Incident Management Unit views IRMA data and runs routine reports for the Commissioner and has found some areas where there are issues with data integrity.
 - *Consumer* tab re: notification to law enforcement - information pertaining to this notification must be entered under this tab. Providers have been entering this information in the narrative section of IRMA; however, it must also be entered under the *Consumer* tab. Leslie indicated that for the purposes of this field in IRMA, it should be indicated that law enforcement has accepted a report once they have initiated an investigation of the event. She encourages providers to ask the police if they are investigating the event in order to determine whether they can start their own internal investigation.
 - *Involved Persons* tab re: allegations of abuse - there are a number of types of people to select from in this tab. Providers must enter the full name of people, especially in the case of staff who are identified as the target of the incident/allegation of abuse. Providers often enter this information in the narrative; however, it needs to be entered into the *Involved Persons* field so that it can be queried.
 - For one situation that occurs only one incident should be filed. For example, an incident in IRMA is able to contain both a Possible Criminal Act for one individual and an allegation of abuse for another individual. Different classifications can be selected for each individual involved.
 - Descriptions in IRMA need to be clear and detailed. Providers need to be clear about the protections put in place. If there is an allegation of serious physical abuse or sexual abuse, the targeted





staff must be removed from contact with all individuals receiving services.

Training accounts: Anthony Kesseling (IMS)

- OPWDD’s Information Management Solutions (IMS) unit created a training version of IRMA which is accessible from OPWDD’s website. It looks identical to the live version but contains false data. To facilitate staff training, IMS created temporary accounts in this application. Providers must sign up with IMS (Tony Kesseling) to use these accounts. Tony will need to know the number of accounts needed and the scheduled date(s) of use. Providers may contact Tony to make these arrangements via email at anthony.kesseling@opwdd.ny.gov.

Removing employees from IRMA: Anthony Kesseling

- When providers request access to IRMA they fill out a User Access Request (UAR) form. This same form is used to revoke staff from IRMA. It can be found on OPWDD’s website along with directions for discontinuing access. Providers must immediately remove employees once they separate from service.

Access roles: Scott Grabicki (IMS)

- The Basic Security for the Web (TBSW) - There are now approximately 25 new roles that can be selected when assigning access. The DDSO will still assign roles but the Incident Management Unit will now be creating roles (as necessary). The DDSOs no longer have the ability to create roles.

Update on file upload: Scott Grabicki

- This project is still in the testing phase. The vendors’ software applications are being tested for their ability to export and upload incident information from their systems into IRMA. Additionally, various functions are being tested. IMS anticipates concluding testing and releasing the file upload functionality in mid to late November. Please note that testing results from the vendors may dictate additional testing timeframes.

Law enforcement notification protocol: Cheryl Mugno

- Cheryl spoke about the process and available resources for making day to day determinations regarding notification to law enforcement.





- The Law Enforcement Notification Protocol was issued in August 2011 and was developed in partnership with the NYS Police. The Penal law and Part 624 definitions were referenced in the development of this document.
- Many questions that OPWDD has received since the release of the Protocol are the perennial questions that OPWDD has struggled with over the years.
- The Protocol does not replace guidance in Part 624 but provides guidance on common events that are expected to be reported; the Protocol is not all inclusive.
- Providers are still expected to comply with recent policy directives that require them to report crimes immediately. A new law has been passed that specifies a 24 hour timeframe for reporting to law enforcement. Further, CMS issued a directive that is applicable to ICFs that requires a 2 hour timeframe in certain instances. OPWDD plans to make corresponding changes to its regulations in the near future but for now providers must report all potential crimes to law enforcement immediately.
- Regarding familial abuse, guidance remains the same that an allegation of abuse that may be a potential crime must be reported to law enforcement. OPWDD understands that it is difficult to assess this type of situation. It is recommended that providers inform families of the requirement to report familial abuse that may be a crime to law enforcement. Also, when a report is made providers should handle the situation with the same level of sensitivity used when interacting with family members for other purposes.
- In response to requests for the definition/clarification of the terms “intent” and “injury,” judgment is required. Judgment is also required for theft of property crimes. The Penal law does not identify a dollar amount as a threshold for determining whether or not a crime has been committed. Providers should reach out to the local law enforcement entity in their region and establish a protocol for reporting crimes. OPWDD acknowledges that there are many law enforcement entities involved in the OPWDD system (not just state police) and is reaching out to other major entities such as the District Attorney Association, NYS Police Chief Association, and NYC Police Department.
- Existing guidance in *The Part 624 Handbook* appendix titled *Considerations for Consent to Sexual Contact* provides information that is helpful regarding sexual consent determinations.





- Cheryl reminded providers to use their contacts and local protocols with law enforcement to help address issues related to reporting. Many law enforcement entities have made their special victims unit available for notifications. When in doubt about an incident, providers are advised to notify law enforcement.

OPWDD centralized investigations: Tony Bruno

- Tony Bruno introduced himself as the Director of the Office of Investigations and Internal Affairs. This unit will investigate serious incidents in state operations.
- There is an investigative report format that is being used in state operated services. It will be posted on OPWDD's website with explanation and guidance in the very near future.

Regulations: Barbara Brundage

- Barbara indicated that in August 2011, OPWDD proposed two regulations related to incident management. The regulations are pertaining to: 1) investigations of serious reportable incidents/allegations of abuse and 2) training requirements. Both regulations are effective November 1, 2011. Barbara sent memos to providers that explain these regulations. The memos and text of the regulations can be accessed on OPWDD's incident management webpage. Please reference these documents for additional details about the regulations.
- Barbara indicated that her unit is working on other regulations: 1) related to the timeframe for reporting potential crimes to law enforcement and 2) to mandate IRMA. Providers should pay attention to future memos regarding these regulations as well as other potential new regulations.

Proper classifications & dispositions: Barbara Brundage

- Barbara indicated that as incident reports are coming in, it has been brought to her attention that there are inconsistencies among classifications or that some events do not meet the definitions of abuse per Part 624 regulations. Please refer to *The Part 624 Handbook* for interpretation of definitions which are to be consistently applied throughout the state. Providers can contact OPWDD's Incident Management Unit when unsure of how to classify an event.





- Barbara indicated that sometimes an event is filed as an allegation of abuse, but upon investigation it is found that it does not meet the Part 624 definition of abuse. Investigators must refer to Part 624 routinely.

Diagnostic procedures-reporting positive findings: Leslie Fuld

- Leslie indicated that if a diagnostic procedure is performed and a positive finding for injury is revealed, regardless of whether it requires or does not require medical or dental treatment, it must be reported as a reportable or serious reportable incident. However, contusions/bruises that are revealed by an x-ray would not be reported as a reportable incident.

Transportation safety: Leslie Fuld

- Leslie reported that the safeguarding alert on van safety has been expanded to include all forms/modes of transportation and also addresses distracted driving. It will be issued in the near future.

Questions & Answers:

The meeting was opened to questions from attendees. The questions and responses are summarized as follows:

Question: To what extent do unexplained absences at day programs have to be followed up on?

Response: Providers must ensure individuals safety. It is suggested that providers make it a routine practice to send home information sheets for individuals receiving services, as appropriate, so that the family member can provide updated contact information for the provider in case the provider needs to reach the family in the event of an unscheduled absence. It was also suggested that providers talk to individuals and their families about OPWDD's reform initiatives and new policy directives so that the families understand what is expected and required of providers.

Question: What are the parameters for providing the Mental Hygiene Legal Services (MHLS) information regarding disciplinary actions taken against an employee?

Response: MHLS has broad access to carry out their functions. Providers should contact OPWDD's Counsel's office if they are uncertain as to whether or not MHLS is entitled to the specific information being requested.





Question: In situations when an individual receives Medicaid Service Coordination (MSC) and day services but does not reside in an OPWDD certified or operated residence, why is the day program responsible to report and investigate incidents/allegations of abuse when the MSC is more involved with the individual/family?

Response: Years ago SCIR directed that the MSC would be responsible to report and investigate; however, this guidance was recently changed to reflect that the day service is responsible. SCIR determined that the day service generally has a greater capacity to perform an investigation. It should be noted that the provider that is providing the day service is responsible to report and investigate and therefore, the report does not have to be filed by staff of the day service itself. If an MSC has a relationship with the family of the involved individual, the MSC can assist the day service with explaining the Part 624 process to the family. In these situations, providers can only investigate to the extent possible and must enter data on familial allegations into IRMA. Providers may come across situations where the MSC refuses to get involved even if the provider handling the situation needs their assistance (e.g. in arranging respite or counseling). Providers can contact their respective DDSO to assist in resolving this sort of issue.

Question: If law enforcement is not willing to accept a report, but the provider feels strongly that the involvement of law enforcement is warranted, what should providers do? Should providers merely record the refusal and go forward with their own investigation?

Response: Providers may need to follow-up with law enforcement on a case. There have been times when law enforcement did not initially investigate a case and then later determined they needed to do so. The provider can follow-up with law enforcement in these situations. In addition, if a provider feels that there is a serious issue that is not getting the attention it requires from law enforcement, the provider should contact the DDSO.

Question: What does a “pattern of conduct” mean as referenced in the Protocol?

Response: There is no specific formula for determining if events constitute a pattern, it is a judgment call. Trending is important to determine whether there is a “pattern of conduct.”

Question: There are concerns that law enforcement is already overwhelmed with the amount of notifications they are receiving and now providers are calling them if individuals do not show up to a program/service in response





to the recently-issued OPWDD directive. Is there a protocol for contacting law enforcement in these situations?

Response: This will be on an agenda for discussion at a future SCIR meeting and a formal response and guidance on this issue may be issued by OPWDD in the future. In the interim, providers should refer to commentary under paragraph 624.4(b)(2) in *The Part 624 Handbook* for guidance on reporting an individual as missing.

Question: A provider was told that they were not privy to an investigation of familial abuse being conducted by Adult Protective Services (APS or PSA). What is the provider's responsibility in these cases?

Response: The Mental Hygiene Law was changed in 2006 to require that OPWDD (including voluntary providers) investigate allegations of abuse involving an individual receiving residential, day, MSC, and HCBS Waiver services in the OPWDD system. If the voluntary provider is providing any of these services to an individual then the provider is responsible to conduct an investigation of familial abuse. If APS/PSA is also involved in the case and is not cooperating with the provider, then the provider can reference the Memorandum of Understanding between OPWDD and APS which delineates the roles and responsibilities of each agency. This can be found in *The Part 624 Handbook* appendix.

Question: Are providers responsible to report allegations of abuse involving children receiving MSC only and attending school?

Response: This will be on an agenda for discussion at a future SCIR meeting and a formal response and guidance on this issue may be issued by OPWDD. In the interim, providers may contact their respective DDSOs for guidance if this issue arises.

Question: Does OPWDD plan to add Jonathan's Law notifications to the *Form OPWDD 147*?

Response: There are no plans to change the *Form OPWDD 147* at this point. Many providers use an ancillary form to record these notifications. OPWDD does not need to access this information through the *Form OPWDD 147* as information about notifications is recorded in IRMA.

Question: What do providers do when an individual receiving MSC only, refuses to participate in the sexual consent determination process and is in a relationship?





Response: If an individual refuses an assessment there may be other ways to determine his or her capacity to consent to sexual contact. For example, a psychologist who knows the individual can make a determination. Also, if the provider is aware that such individual is in a relationship that involves sexual contact the provider should offer that individual the opportunity to receive education and training on sexuality and other elements that are a component of the capacity to consent to sexual contact.

Question: Are providers required to fax a *Form OPWDD 147* to OPWDD if data is entered into IRMA within 24 hours?

Response: If data is entered into IRMA within 24 hours, the *Form OPWDD 147* does not need to be faxed to the DDSO. However, providers are required by regulation to notify the DDSO of serious reportable incidents and allegations of abuse immediately by telephone or other appropriate method. This notification must be made in addition to data entry into IRMA. The use of a telephone will be the most common method of complying with this standard; however, it does not preclude the use of a computer hook-up, fax machine, or other electronic or telecommunication process.

Request: There was a request that OPWDD keep the TABS system updated as this is becoming an issue in IRMA. The DDSOs cannot close a case in IRMA when the individual is listed as a “temporary consumer.”

Request: There was a request that the Power Point presented at this meeting be posted on OPWDD’s website. SCIR will post it on OPWDD’s incident management webpage.

Closing Remarks: Barbara Brundage & Leslie Fuld

- Barbara and Leslie thanked everyone for attending and reminded providers to keep apprised of new and updated information on OPWDD’s incident management webpage.

