

# Cross-Sector Data Exchange: Data Use and Legal Privacy

## White Paper

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Commissioned on behalf of  
the Systems Integration Project

**SYSTEMS** **INTEGRATION**

A community project at United Way

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## Systems Integration Project

### Data Use and Legal Privacy White Paper

This paper summarizes the privacy and security considerations applicable to the data points identified as material to the Systems Integration Project (“SIP”) data ecosystem and the information sharing contemplated in that environment. This paper also seeks to describe the current privacy and security laws and considerations that impact and are applicable to these data points and information sharing both to the SIP and from the SIP to its participants. A full discussion of the applicable laws is contained in the SIP Data Use and Legal Privacy Landscape Baseline Summary document, which is attached to this paper as Appendix A. Ultimately, this paper aims to generate mechanisms for data sharing through the SIP that consider these laws and that engage community members and stakeholders to foster trust and encourage participation.

The specific data points addressed in this paper were derived from a series of business requirement interviews conducted with key stakeholders. The data points were identified as the ideal information necessary to create, operate and maintain a successful data platform and to accomplish the mission of the SIP. While this paper attempts to directly address the majority of the specific data points identified by SIP leadership and participants, certain data points are only addressed as part of a larger discussion of a particular legal framework. In addition, this paper addresses only those data points that are either automatically released to (“pushed”) or pulled or released from an agency or a third party; where the individual has self-reported the data into the data ecosystem, as a principle, these laws may not apply except to the extent that any prohibition on further redisclosing the information exists.

The identified data points initially fell within three broad industry headers: health, education and social services. As the work of the SIP progressed, additional subcategories within these broad headers developed in order to address more specific indicators of risk or success in an individual’s life. Importantly, these data points reflect an ideal environment. The SIP recognizes that barriers may exist that limit or prohibit access to some data, and the end product will reflect those limitations.

While the information shared with the SIP by the various agencies and organizations will be identifiable, individual-specific data, in most cases, the information being shared by the SIP with its participants will not be granular, identifiable data. Rather, the majority of the information shared will be available through a dashboard that marshals the information and applies a risk formula to analyze an individual’s situation and identify where support resources may be best deployed for that individual. Specifically, the risk formula is designed to analyze the data points and place an individual on a sliding scale of risk within the data subset, from thriving to crisis. Along that continuum, individuals can also be identified as self-sufficient, stable, or vulnerable. Where an individual lies on that risk scale will be indicated by a color, without reference to the specific data point or points that are driving the result.

On a high level, the most straightforward path to information sharing with respect to many of the data points identified is through individuals self-reporting the data to the SIP. This would require significant community buy in and engagement in order to ensure that the information shared is both timely and detailed enough to achieve the goals of the SIP.

Absent self-reporting, the clearest path to information sharing for the majority of the data points is through the use of a global written consent, signed by the individual or his/her authorized representative that allows the information to be shared with the SIP and its participants. The exact form of the global consent is in process, but it is expected that the form will consider and reflect relevant consent forms developed by agencies within the specific industries and will take into account the specific legal requirements applicable to the particular data point. It is important to note that a number of data points identified, such as an individual's income tax information, cannot be shared in the SIP context, even with a global written consent. Additionally, while written consent may allow certain data points to be shared, in part, the practical mechanics of sharing such data may be prohibitive either in the length of time it would take to acquire and share the data or in the limited data that can actually be shared by written consent.

This paper is intended to be a living document, to be updated and revised on a periodic basis as laws change, as new or revised data points are identified, as a result of business requirement interviews, as input is provided by SIP stakeholders, and as the needs of the SIP change and develop over time. The current data subsets and specific data points and their potential for inclusion in the SIP are addressed below.

## **I. EDUCATION AND TRAINING**

### **1. Data Points**

Community organizations serving children and families need information from the education system to gather a complete background of the student or adult. Understanding the individual's background and education achievements and challenges can better position such organizations to address the individual's needs. The SIP team identified a number of data points under the broad header of "education and training", including, but not limited to: graduation from high school (or equivalence), possession of an advanced degree, and long range educational goals.

A thriving individual, in the SIP environment, is one that has achieved a certain educational level or holds a professional certification or has professional training, or has the ability and wherewithal to achieve certain long term goals. An individual in crisis, on the other hand, has insufficient educational assets to effectively navigate some or all key life activities. Examples of factors that could lead to a determination that an individual is in crisis include if the individual does not have a high school diploma or equivalency, or has inadequate foundational skills (i.e., reading, writing, etc.), and/or is not connected to programs or resources that can assist the individual in developing those foundational skills.

The majority of the data points identified under this header fall within the definition of "Education Records" and within the purview and protection of The Family Educational Rights and Privacy Act ("FERPA"). Education Records, with limited exceptions in the case of "directory information" and in certain, enumerated circumstances, are confidential and are defined as those that "directly relate to a student and that are maintained by an educational agency or institution or by a party acting for the agency or institution."

## **2. Data Source**

To the extent this information is not self-reported, the bulk of the education and training information will come from educational institutions, including, for purposes of FERPA, educational institutions that receive public funding.

## **3. Potential for Inclusion in Systems Integration Platform**

Individuals expect that their education records will be held to a certain threshold level of privacy. FERPA and the New York State Education Law protect the privacy and security of student education records. Generally, FERPA prohibits educational institutions and agencies that receive U.S. Department of Education funding from disclosing personally identifiable information from students' education records without the consent of a parent or an eligible student. However, FERPA further grants parents and students the right to inspect, review and direct the use of education records, meaning that parents and eligible students can consent to the release of such information.

In addition, there are numerous exceptions that exist under FERPA where written consent is not necessary and the educational institution can release and share information. Those exceptions include, but are not limited to, where there is a suspicion of child abuse and neglect, in the event of an emergency and in referring children for special education services. In addition, provided that the educational institution has taken certain steps, information designated as "Directory Information", meaning information contained in the education records of a student such as the student's name, address, contact information, photograph, dates of attendance, degrees and awards received, grade level and enrollment status, may be shared without student consent.

On the state level, Section 2-d of the New York State Education Law provides additional protection and limits the further collection and use of student data from student records. Similar to FERPA, personally identifiable information can be shared under Section 2-d with the student's or parent's consent.

A separate scheme provides heightened protection for the education records of students with disabilities. The federal Individuals with Disabilities Education Act piggybacks on the FERPA confidentiality rules for most of its substance, but it goes further than FERPA does in some respects. Generally speaking, the FERPA rules continue to apply in that parental consent is generally required to release an education record (or student consent if the student has reached the age of majority) unless an exception applies.

## **4. Authorizing Individual**

FERPA gives parents certain rights with respect to their children's education records including, but not limited to, the right to review the student's records and to request an amendment of those records. Such rights transfer to (and remain with) the student once the student turns 18 or attends a secondary institution.

## **5. Required Consent Form**

In most circumstances, schools must have written consent from the parent or the eligible student to release information from a student's education record. Exceptions apply that allow, but do not mandate, a FERPA-covered entity to disclose information without consent.

**6. Redisclosure/Special Rules.**

Importantly, FERPA-protected information released from an education record, once disclosed, cannot be subsequently redisclosed without the individual's consent. This is a common issue that the SIP will need to confront, as many areas, including basic needs information and substance abuse information, contain similar prohibitions.

**II. BASIC NEEDS**

**1. Data Points**

Local social services districts administer numerous programs that provide temporary financial assistance and basic needs benefits for individuals in a number of contexts including in cases of short and long term financial need, food and nutrition insecurity, and home energy. Lack of these essential resources can result in underperformance at, or inability to attend, school or work, and cause major, lasting impacts in an individual's life.

From a basic needs perspective, thriving individuals are able to obtain sufficient food and clothing without outside support and have the ability to select and prepare high-quality nutritious food. The risk factors contemplate a sliding scale, where an individual may have access to one resource (e.g., the individual has sufficient clothing) but may be lacking in another. Individuals in crisis, according to the SIP, are those that have no food and/or clothing or the ability to access resources to obtain such items. An individual in crisis is wholly reliant on free and low cost sources and public assistance in order to meet these needs.

**2. Data Source**

Basic needs information is accessible from a local social services district and the agencies that implement the various programs providing the support network for these basic needs services.

**3. Potential for Inclusion in Systems Integration Platform**

As a broad rule, records generated by local social services districts are strictly confidential in most respects. Each local social services district is mandated to create and abide by certain individualized policies and procedures setting forth the confidentiality requirements for that particular district<sup>1</sup> including, but not limited to, policies and procedures regarding access, utilization and dissemination of information. While access to such information is restricted, it is not completely barred. Applicants or recipients of services can access their case records at any time, subject to certain limitations, such as where the information is maintained separately from

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<sup>1</sup> Note that this summary does not address each particular local social services district's policies and procedures. However, that is certainly something that can be reviewed as the SIP moves forward.

the individual's public assistance file for purposes of criminal prosecution and referral to the District Attorney or is in the county attorney or social services attorney's files.

**4. Authorizing Individual**

Authorized agents, including parents, may consent to the release of certain information from the public assistance records of applicants/recipients. However, certain case records can only be provided to the applicant/recipient.

**5. Required Consent Form**

A global consent form developed by the SIP should allow the release of some basic needs information, except in certain contexts. Other areas will be restricted both by law and by practical accessibility considerations.

**6. Redisclosure/Special Rules**

Similar to FERPA, there is a limit on what can be redisclosed. Information disclosed under these provisions must be maintained in confidence by the individual or agency receiving the information.

**III. BENEFITS**

**1. Data Points**

Benefits, both public and private, provide a critical backstop and support system for individuals against unexpected health concerns and drastic social changes. An individual with limited to no benefits is constantly at risk of one significant event causing a severe change in that individual's life. Worse, an individual may find himself or herself having to make the untenable choice between, for example, health and food, if they are forced to pay out of pocket in circumstances that otherwise may be covered by a benefits program.

A thriving or self-sufficient individual in the SIP data ecosystem has full non-public benefits, including health, dental and vision insurance. Stable individuals need assistance in order to supplement these benefits from some level of public authority. Individuals in crisis or that are vulnerable are either not eligible for public assistance or are eligible for public assistance but not enrolled.

**2. Data Source**

Benefits information will be both self-reported by individuals and available from health plans and sources of public assistance enrollment, including Medicaid or programs operated by the New York Office of Temporary Disability Assistance.

**3. Potential for Inclusion in Systems Integration Platform**

Health plan and New York State Medicaid records are subject to confidentiality restrictions found in other sections of the law. For instance, both health plan and Medicaid

records are subject to the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), the Genetic Information Nondiscrimination Act of 2008, the New York Mental Hygiene Law and 42 C.F.R. Part 2. New York State Medicaid data is also protected by the New York Social Services Law. Consistent with those laws, Medicaid eligibility and information may be shared in a limited number of instances without consent. However, that data may also be shared with consent.

**4. Authorizing Individual**

A parent or guardian can authorize the release of an individual’s benefits information, except in limited circumstances.

**5. Consent Form**

A global consent form developed by the SIP and consistent with the requirements set forth in the Physical and Behavioral Health Section of this paper should allow the release of benefits information.

**IV. DEPENDENT CARE**

**1. Data Points**

A parent or guardian’s access to safe and reliable dependent care while they attend work or school is important for obvious reasons. Without it, the parent’s/guardian’s educational and employment options can be limited or eliminated. Failures in dependent care can result in absences from school or work, which in turn results in poor academic performance, the loss of income or the loss of employment altogether. From the affected child’s standpoint, a lack of proper supervision can create dangerous or unhealthy situations if the child must fend for himself or the child’s siblings are forced to babysit while the parent(s) or guardian must be outside the home.

For purposes of the SIP, an individual is deemed to be thriving when he or she has access to quality and reliable dependent care without outside assistance or the dependent’s needs have resulted in only one or fewer absences from/disruptions to school or work within the past six (6) months. On the other end of the spectrum, an individual in crisis lacks access to reliable dependent care or a dependent’s needs have resulted in six (6) or more absences from/disruptions to school or work within the past six (6) months.

**2. Data Source**

Information on dependent care would come from self-reporting or from New York-licensed dependent care providers.

**3. Potential for Inclusion in Systems Integration Platform**

If a friend or family member provides dependent care, the only way to capture that information would be by self-report.



If a licensed provider provides care, New York regulations protect the privacy of individual children in day care programs. For day care programs to provide that information to the SIP, the consent of a parent or guardian is required.

**4. Authorizing Individual**

A parent or guardian could authorize the release of dependent care information from a licensed day care provider.

**5. Consent Form**

A global consent form developed by the SIP should allow the release of dependent care information.

**V. EMPLOYMENT**

**1. Data Points**

An individual's employment status determines opportunities for advancement and income levels which impacts choices available for the individual and his/her family in areas such as housing and education, self-sufficiency and ability to plan for the future. Thriving individuals maintain permanent, stable, full-time employment with good pay and growth opportunities, often choosing the sectors in which they are working. In stark contrast, individuals in crisis are unemployed or underemployed, have undeveloped job search skills and have no work history.

**2. Data Source**

Unemployment insurance information can be accessed from the New York State Department of Labor ("NYSDOL") to determine the employment status and wage information concerning an individual.

**3. Potential for Inclusion in Systems Integration Platform**

Although an individual's unemployment insurance information is confidential, it may be disclosed based on the individual's informed consent and included in the SIP. However, the question is whether, even with proper consent, the information provided to the SIP will be current enough to be useful in meeting SIP objectives.

**4. Authorizing Individuals**

The individual whose unemployment insurance information is being disclosed could authorize NYSDOL to release such information.

**5. Consent Form**

A global consent could be used to permit the release of data as long as the consent includes a statement that the purpose of the release is limited to providing a service or benefit to the individual signing the consent.

## **6. Redisclosure/Special Rules**

Federal law requires recipients of unemployment information to safeguard the information disclosed against unauthorized access or redisclosure.

## **VI. FINANCIAL MANAGEMENT**

### **1. Data Points**

There are a number of data points within the SIP ecosystem that address an individual's finances and his or her ability to manage those finances including those items addressed in the tax and basic needs sections. Financial instability is a common thread to individuals living in crisis in a number of contexts, whereas the ability to manage finances and live with little to no debt grants an individual flexibility and the ability to stabilize and support him or herself through other drastic life changes, e.g., a significant medical event or job loss.

The SIP has identified a number of variables applicable to an individual's ability to manage his or her finances that can help identify and contrast thriving individuals to those in crisis. Key data points include the ability to self-manage finances, good credit and limited debt beyond commonly expected items (i.e., mortgage, education and car loans). Thriving individuals, within the SIP universe, are considered those who have no debt other than mortgage, education and/or car loans, are current in all such debts, and maintain savings of at least three months' worth of expenses. Juxtaposed, individuals in crisis have numerous debts, are not making payments on those debts and have no savings.

### **2. Data Source**

Perhaps no single access point can provide as thorough a financial picture for a given individual better than a credit report. Credit reports are strictly protected by credit reporting agencies, and those agencies are limited in how they can collect, verify and release information in consumer reports. To be a "consumer report", the information must be furnished by a "consumer reporting agency", meaning a person or entity that regularly engages in assembling or evaluating consumer credit information or other information on consumers to third parties for monetary fees. Consumer reporting agencies are heavily regulated and can only furnish consumer reports in certain, enumerated circumstances. Information that is not a consumer report from a consumer reporting agency can be shared more freely.

### **3. Potential for Inclusion in Systems Integration Platform**

Consumer reporting agencies can furnish consumer reports in a number of enumerated circumstances, mostly in the context of business needs. However, the most direct and applicable path to information sharing is by consumer consent.

### **4. Authorizing Individual**

The individual consumer can direct use and disclosure of his or her consumer report. There is no clear guidance as to whether an individual's parent or guardian can similarly direct such use and disclosure.

## **5. Required Consent Form**

A global consent form developed by the SIP should theoretically allow the release of credit report information.

## **6. Redisclosure/Special Rules**

Receiving this information may subject the SIP data platform to various additional rules as a “credit reporting agency”, including providing individuals with copies of their consumer information upon request, investigating disputed information, deleting negative information, obtaining consent to share information with employers, placing fraud alerts on a consumer’s profile upon request, and following special rules related to investigative reports and others.

# **VII. HOUSING**

## **1. Data Points**

Housing instability, lack of access to affordable housing and homelessness contribute to several poor outcomes, including poor academic performance in children and worsening health in adults and children caused by increased stress. In addition, without affordable housing, families may be unable to buy enough healthy food to remain in good health and engaged at work or at school.

For purposes of the SIP, an individual is thriving when he or she has:

- safe and secure housing of his or her own choice without any subsidy;
- housing payments that are equal to or less than thirty percent (30%) of the household budget or less than thirty-five percent (35%) of the household’s monthly gross income; and
- lived in only one residence in the last two (2) years.

An individual deemed to be in housing crisis is not permanently housed, homeless or living in conditions that threaten his or her health and/or safety.

## **2. Data Source**

In addition to self-reporting, the U.S. Department of Housing and Urban Development (“HUD”) requires an agency that receives certain HUD funds to report data on homeless individuals served by the agency. Local lead agencies are charged with maintaining a Homeless Management Information System (“HMIS”). In Monroe County, the lead agency is Rochester/Monroe County Homeless Continuum of Care. HMIS data can be used to produce an unduplicated count of homeless persons, understand patterns of service use, and measure the effectiveness of homeless programs.

State, city and county court data is a potential source for information on foreclosures and evictions.

**3. Potential for Inclusion in Systems Integration Platform**

The HMIS provides a very useful database from which to pull information on the homeless population. However, HMIS data is confidential under HUD-issued subregulatory guidance. To release information to non-authorized users of a HMIS, a written consent from the client or an authorized representative is necessary.

Data from New York eviction and foreclosure proceedings are available as public records. Eviction and foreclosure filings are not considered to be confidential under New York law and in fact are often sold by the State to commercial reporting agencies. Because it is publicly available information, it will not be discussed in the subsections below.

**4. Authorizing Individual**

A parent or guardian could authorize the release of HMIS information.

**5. Consent Form**

A global consent form developed by the SIP should theoretically allow the release of HMIS information.

**6. Redisclosure/Special Rules**

HMIS-participating agencies that are permitted to access information are not permitted to redisclose the information, so it stands to reason that any disclosure authorized by client consent should prohibit redisclosure of HMIS information when that information is accessed through the SIP.

**VIII. INCOME**

**1. Data Points**

Income level determines the choices available to an individual and his or her family, and the ability of the individual to be self-sufficient and plan for the future. From an income perspective, thriving individuals earn greater than or equal to the MIT Living Wage or the area self-sufficiency amount and are able to make choices in many aspects of their lives including housing, education and healthcare. Individuals in crisis are totally dependent on public assistance or not currently employed. The risk factors contemplate a sliding scale based on which percentile the income level falls on the MIT Living Wage or area self-sufficiency indicators.

**2. Data Source**

Income will be self-reported by individuals and available from the New York State Department of Taxation and Finance (“NYSDTF”) and the Internal Revenue Service (“IRS”). Additionally, certain wage information may be accessed from the New York State Department of Labor (see § V. EMPLOYMENT).

**3. Potential for Inclusion in Systems Integration Platform**

Both the NYSDTF and the IRS require the completion of specific forms before releasing income information to an individual’s representatives or appointee and the representative must fall within specific categories under federal law. A global written consent will not be sufficient. Therefore, other than self-reported income information, from a practical standpoint, there is little potential for inclusion of income information obtained from the NYSDTF or the IRS in the SIP.

**4. Authorizing Individual**

The taxpayer, a guardian of the taxpayer or the taxpayer’s representative may authorize the disclosure of information by NYSDTF or the IRS.

**5. Required Consent Form**

A global consent form developed by the SIP will not be sufficient to authorize the release of federal or New York State taxpayer information from NYSDTF or the IRS. However, wage/income information for those individuals who have interfaced with the unemployment insurance system may be obtained (see § V. EMPLOYMENT).

**IX. PHYSICAL AND BEHAVIORAL HEALTH**

**1. Data Points**

The interconnection between an individual’s health care needs and his/her educational background and social services needs and supports is central to the SIP. An individual’s physical and behavioral health care conditions and the extent to which the individual is able to receive treatment are essential data points in order to provide a clear picture of that individual’s needs and ability to thrive.

According to the current parameters of the SIP, thriving individuals are individuals without health or mental health issues that create a barrier to work, education or family life, and have the ability to advocate for themselves and their family members. A thriving individual can also be quantified by the individual’s ability to consistently attend school, work or important appointments. Individuals in crisis, on the other hand, suffer significant barriers to work, education or important other aspects of life as a result of their health or behavioral health issues. Indicators within the SIP platform that could cause an individual to thrive or live in crisis include whether the individual has certain health or behavioral health issues, whether those issues preclude attendance or the ability to participate in essential life activities, and whether the individual is currently receiving care or treatment from a health care provider for such issues.

**2. Data Source**

The SIP hopes to receive records from providers and health care entities throughout the continuum of care for an individual. Included will be HIPAA “Covered Entities” across the health care landscape, mental health providers, substance abuse providers, HIV/AIDS treatment providers and other such specialty providers.

### **3. Potential for Inclusion in Systems Integration Platform**

The HIPAA Privacy Rule and Security Rule provide the baseline for patient privacy, including standards for protection of patient information and allowing patients to control how their information is used, maintained, accessed and transmitted within the health care delivery system. The Privacy Rule allows the release of patient health information without consent in a number of contexts, notably for treatment, payment and health care operations. Patients must authorize or consent to the release of such information in other contexts, such as research or where no exception exists. HIPAA is viewed as a floor for patient privacy.

More restrictive state laws or more restrictive federal laws in certain subject areas preempt HIPAA. New York State privacy laws and regulations, both in general and with respect to certain categories of health information, are more restrictive and less flexible than HIPAA and its implementing regulations. For instance, while HIPAA allows the exchange of health information without consent for circumstances involving treatment, payment or health care operations, no similar exception exists in New York. Thus, patient consent is generally required, except in cases of emergency treatment. In addition, certain federal regulatory schemes (i.e., 42 CFR Part 2 regarding substance abuse treatment) preempt HIPAA.

These separate state and federal regulatory schemes each contain distinct use and disclosure rules. However, as a baseline, patients can authorize the release of their medical records for treatments to which they consented. This extends to minors. Thus, while each law has certain provisions allowing use or disclosure for certain purposes, common threads exist that provide a framework that can be applied on a large scale. The only universal common thread is the ability to disclose patient information either to that patient, directly, or to third parties based on a global consent form incorporating the specific requirements of each law/regulation.

### **4. Authorizing Individual**

In the majority of circumstances, parents, legal guardians or court-appointed guardians may be given access to an individual's clinical records and direct the use and disclosure of such records on behalf of the individual. In the mental health setting, parent/guardian access may be denied if the treating practitioner determines that providing such access would contraindicate treatment. For HIV/AIDS purposes, parents or legal guardians may act on behalf of an individual if such action is necessary to provide timely care.

### **5. Required Consent Form**

A global consent form developed by the SIP should theoretically allow the release of health information. This consent would need to include, at minimum, specific details about the information provided to and accessed through the SIP platform such as:

- How the information may be used;
- What types of information about the individual are included, noting that the individual must be willing to either share all information or limit consent to include only certain, specific information;

- Who may access such information, if consent is given;
- What limitations (if any) there are on re-disclosure of the information; and
- The various sources of information that may be provided.

The various subsets of health care information, such as HIV/AIDS and substance abuse data, must be explicitly dealt with in any such consent form.

## **6. Redisclosure/Special Rules**

In most cases, redisclosure of information is authorized. However, in the substance abuse context, disclosures must be accompanied by one of two specific statements prohibiting further disclosure of the information that identifies an individual as having or having had a substance use disorder.

## **X. SAFETY**

### **1. Data Points**

It is beyond cavil that a person's health and economic well-being can be detrimentally influenced if he or she is impacted by crime, violence, abuse or neglect.

An individual will be deemed to be thriving for SIP purposes when his or her environment is safe and stable, meaning that crime, violence, abuse or neglect does not directly impact the individual's life. On the opposite end of the spectrum, an individual in crisis is a person whose home or residence is not safe, the immediate level of lethality is extremely high and there is possible child ("CPS") or adult protective services ("APS") involvement.

### **2. Data Source**

The SIP proposes to include records from the criminal justice system, the Monroe County 911 call system and the New York Office of Children and Family Services and the Monroe County Department of Social Services (CPS and APS).

### **3. Potential for Inclusion in Systems Integration Platform**

Records of 911 calls are only available to emergency service providers and public safety agencies. In Monroe County, only certain 911 information related to traffic incidents is available on the County's website. Without a change in New York law, it is likely impossible to include this information in the SIP.

Local social services departments that provide adult and child protective services are subject to specific and strict data confidentiality requirements. The laws regarding adult protective services do not specify, either way, whether such information can be released without consent. In the case of CPS, the law explicitly prohibits any individual from consenting to the release of centralized records of reports alleging child abuse and maltreatment. In both cases, the information may be released to a person who is the subject of a report.

**4. Authorizing Individual**

The subject or the authorized representative of a subject of a report can consent to the release of APS records.

**5. Consent Form**

A global consent form developed by the SIP should allow the release of APS information.

**6. Redisclosure/Special Rules**

APS records can only be released if the confidential character of the information will be maintained in accordance with applicable law and that the record will be used only for the purposes for which it was made available. Accordingly, APS information should not be redisclosed once released.

**XI. TRANSPORTATION**

**1. Data Points**

Reliable, accessible transportation is essential to an individual’s ability to access medical care, attend and thrive in a professional environment, drop off and pick up children from dependent care and engage in other critical life activities. Transportation can take many forms but, in a city such as Rochester and in this region where public transportation options are limited, car ownership or access is a key distinguishing factor. Services such as Uber or Lyft can help mitigate the lack of a car but require financial means in order to be accessed and fully utilized as a car substitute.

Within the SIP, a thriving individual owns or has access to an operable car that is affordable, reliable and predictable, that is adequately insured, and that is available for all family members. Alternatively, thriving individuals have sufficient access to public or other transportation that is reliable, practical and accessible. In addition, such transportation costs must be less than seventeen percent of the household’s monthly gross pay for an individual to be considered thriving. Transportation can vary significantly and minor changes can significantly vary the impact on an individual. The SIP considers an individual in crisis to be one who lacks access to public and/or private transportation, or who may have an inoperable car.

**2. Data Source**

Department of Motor Vehicle (“DMV”) records are laden with information regarding car ownership or an individual’s ability to drive a car, such as driver’s licensure and car insurance status. DMV records also include information that can help determine whether an individual’s car is operable, such as inspection status. With respect to public transportation, the Regional Transit Service (“RTS”) maintains certain application information for limited special access programs.

**3. Potential for Inclusion in Systems Integration Platform**



Federal law protects DMV records, including the specific personal information in those records, against unwarranted access. However, certain information of public interest (e.g., traffic accidents, traffic violations and driver's license status) is not protected. The DMV can release certain DMV record information for defined permissible uses, as well as to a proper requestor upon consent. However, certain information, such as photographs, social security numbers and disability information are strictly protected, without exception, even if there is a permissible use.

RTS special program information is considered confidential, by policy, and will not be shared or released without the applicant's written permission.

#### **4. Authorizing Individual**

The driver or another proper requestor designated by the driver should be able to direct the use and disclosure of transportation information.

#### **5. Required Consent Form**

The DMV also has its own, specific consent form that incorporates specific information. The global consent form developed by the SIP may allow the release of DMV information, but it is not abundantly clear.

## **XII. LEGAL**

The SIP also asked whether legal information (i.e., information shared between attorneys and clients) can be shared. As the SIP has been advised, all communications between attorneys and clients are protected by the attorney-client privilege and cannot be disclosed absent the client's waiver of the privilege or unless an exception applies. A global consent form for the SIP would not be sufficient for these purposes, nor would or should a lawyer consider such a form an adequate, knowing waiver of the privilege.

## **XIII. CONCLUSION**

The SIP's goals are ambitious, and the scope of the ideal information to be included in the SIP data ecosystem is broad and sweeping. Absent self-report, not all of the ideal data points can be pushed or pulled into the SIP platform at this time. However, a significant bulk of the information should be able to be shared through the use of a global consent form developed by the SIP, including, with limited exceptions, information regarding an individual's education and training, some basic needs information, benefits, physical and behavioral health, dependent care information, housing/HMIS information and certain safety data, such as APS information. Other information may be possible to bring within the SIP environment, subject to certain conditions being met or barriers being crossed. For instance, DMV records and, subject to the caveats outlined in the employment section, NYSDOL information may be included, subject to those agencies acceptance of the SIP global consent. Similarly, credit report information may be included and should be able to be released to the SIP based on global consent, but the SIP will need to conduct further analysis to determine whether it will become a credit reporting agency as the result of such information sharing and whether the parameters that come with that designation are acceptable from a business perspective. Last, certain information will not be able to be included based on global consent, either because of legal barriers (e.g., CPS data, attorney-

client privileged information and certain other social services data) or because the information requires a specific form in order to be released (e.g., NYSDTF and IRS data).

**Appendix A**

**Data Use and Legal Privacy Landscape Baseline Summary**

See attached.