

# **CD22.7**

## **Appendix 3**

### **Specialized Program for Interdivisional Enhanced Responsiveness (S.P.I.D.E.R.) Audit Report**

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## Background Information

The Specialized Program for Interdivisional Enhanced Responsiveness (S.P.I.D.E.R) Situation Table is a pilot project funded by Social Development, Finance and Administration Division, and approved by Toronto City Council in December 2013. Partner stakeholders are Municipal Licensing & Standards and Toronto Public Health. This pilot was initiated to bring together various City of Toronto divisions and other care-providing organizations in the community to address complex situations dealing with extreme examples of chronic hoarding, multiple property standards and fire code violations, bed bug and other pest infestations.

The staff report in 2013 set a key requirement for these interventions to have an equity component. This requires that all participants approach the coordination of these services with heightened understanding and training around vulnerable and at-risk populations, with a special acknowledgement of the health issues facing individuals in these extreme situations. It is noted that privacy training and information sharing principles and confidentiality are part of the orientation for members prior to attending the table.

S.P.I.D.E.R. operates under a Memorandum of Commitment that requires partners to undergo common staff training related to customer service for vulnerable residents, promote interdivisional cooperation, and use a common language for communicating about vulnerability issues.

Partners are also required under the memorandum to "participate in information-sharing with Participating Divisions in the SPIDER Program by adhering to an information-sharing protocol established for SPIDER that is consistent with relevant privacy legislation".

Situations are brought to the situation table by the partnering agencies after a vetting process, where they are assigned a case number, and anonymized by removing the name and address information. Partners discuss possible intervention strategies at the first tier, determining which partners have a role to play, and discussing relevant information from the numbered case. Once the partners are identified, a second tier discussion takes place among those partners. While S.P.I.D.E.R. was initiated formally in 2014, the information practices did not undergo a formal privacy review prior to the start. Although privacy advice from Legal Services was sought out prior to beginning the program, Corporate Information Management Services, City Clerk's Office, conducted a privacy audit in June 2015 to identify and minimize risks associated with information management practices as a result of some privacy concerns expressed by staff.

## Summary

The overall finding of the audit is that the practices of the situation table are focused on client care for vulnerable individuals, a high level focus on confidentiality, and have minimal risks for any partnering organization involved. While the information management concerns raised by partners are unresolved, they can be mitigated by developing and operationalizing best practices, making operational terms and interpretations standard, and by seeking direction from the governing bodies of the laws and practices at question, to formalize the accepted practices around the table.

Creating practices and processes will serve to alleviate concerns expressed about sharing health information and about any potential repercussions from a non-consensual disclosure of it.

The S.P.I.D.E.R. program provides an opportunity to address fundamental questions regarding the disclosure of personal and health information between City divisions, including Toronto Public Health, a Health Information Custodian. The inclusion of external agencies, including law enforcement agencies and other non-City Health Information Custodians raises additional considerations about the disclosure of personal and health information at the S.P.I.D.E.R. table.

Each of these organizations has different legal legislative and (ethical) regulatory challenges around what information can legally be disclosed, and how that information should be disclosed, while balancing both privacy protection and the lawfully authorized function of S.P.I.D.E.R.

This audit has been undertaken to ensure that the risks present in the disclosure of personal information process can be identified and recommendations be adopted to minimize the risks inherent in disclosing information across partner agencies.

The non-consensual disclosure aspect of the situation table is complicated and requires (intervention) resolution by senior staff or with the governing bodies of the legislation and health practices.

The Audit finds that the collection and use processes at the situation table noted in the foundation documents and observed by the author are sound, but reinforcement of expectations around information use and privacy considerations is needed to keep the table focused on developing their own practices.

The S.P.I.D.E.R. program has not adequately determined and tested the interpretation of the legislation to the satisfaction of the partners to allow for disclosure as it relates to the non-consensual disclosure of public health information.

Conflicting interpretations are interfering with a common goal. The final determination around non-consensual disclosure of this information should be determined in consultation with the Ministry of Health and Long Term Care, the Information and Privacy Commissioner of Ontario with input from the appropriate professional Colleges and the Ontario Public Guardian and Trustee. S.P.I.D.E.R should submit a test case to these governing for their review and guidance.

## **Risks**

The following are the risks identified by the audit:

1. Disclosure/non-disclosure of personal health information without consent by Health Information Custodians to partners that are not Health Information Custodians (Medium/High)
2. Disclosure of personal information between City divisions without consent. (Low)
3. Disclosure of personal information by City of Toronto divisions to non-City partners. ( Low)
4. Lack of conflict resolution mechanisms in S.P.I.D.E.R. to address disclosure issues. (Medium)
5. Lack of consistent terminology/interpretation of terminology.(Medium)
6. Lack of training on the appropriate information to be disclosed at the situation table. (Medium)
7. Lack of clarity in administrative relationships between partners. (Medium)
8. Lack of training and awareness of partners on privacy principles.(Medium)
9. How to incorporate non-medical factors into the assessment of elevated risk. (Medium))
10. Communications from the situation table require a more formalized process.(Low)

## **Recommendations**

The following recommendations address the risks above:

1. Clarify terminology, legal interpretation and the relationships of the partners with direction from Legal Services, senior management and all applicable governing organizations.

2. Develop a S.P.I.D.E.R. consent form or formal language for inclusion in pre-existing forms to focus on getting consent or referral to the Office of the Public Guardian and Trustee where the competency of the individual can be reasonably called into question.
3. Implement an escalation process for conflicting interpretations/decisions arising from the situation table.
4. Develop a test case for Non-consensual disclosure of information for submission to the Ministry of Health and Long Term Care and the IPC for review and guidance that involves the following:
  - a. Disclosure under 40.1 with an inclusive determining set of guidelines for the classification of risk of bodily harm as stated in that section.
  - b. Disclosure under 43.1 f) that involves a minimal set of required information and that can be justified as a use consistent with the original collection, law enforcement, or health and safety.
  - c. the least privacy-invasive set of data that will serve to accomplish the goals of the situation table in non-consensual circumstances.
  - d. Approval to disclose under the above parameters at the judgement of the TPH medical professional at the situation table as supported in writing by the head of TPH.
  - e. Determine whether this test case be either
    - i. implemented and defended upon reception of a complaint or,
    - ii. be submitted to the appropriate governing bodies for approval prior to use.
5. Train and instruct all partners in basic privacy principles including table specific language to minimize disclosure of personal information.
6. Draft and sign an information-sharing agreement with community (non-City) partners ensuring allowable disclosure of information at any tier of the situation table.
7. Review and draft guidelines for the communication of actions determined by the SPIDER table to be followed by SPIDER participants based on efficient and protected communication.

Implementation of these recommendations will require consultation with the appropriate bodies involved. Reasonable dates for implementation should be assigned after consultation.