

A proposed Amendment to the Inspection of Public Records Act

Presented to the New Mexico Legislative Interim
Court, Corrections, & Justice Committee

By

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Presentation Outline

- The problem the proposed legislation addresses.
- The History behind the proposed legislation.
- Proposed legislation

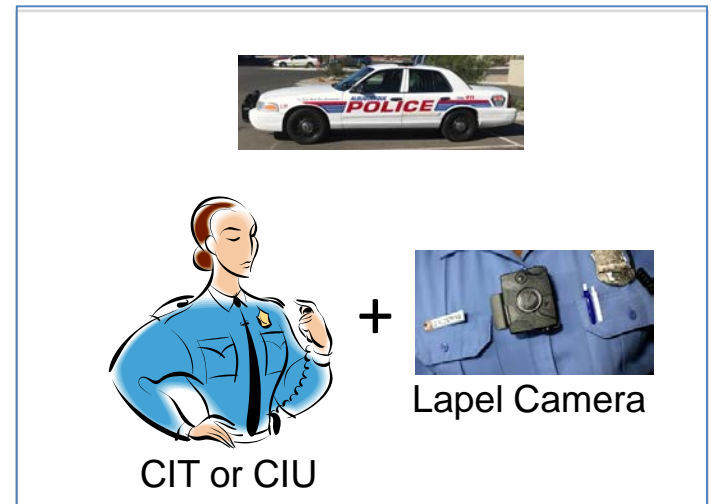
The Problem: Personal Mental Health Information is not Protected when Law Enforcement is Involved.

Present Situation

Physical Health Response



Mental Health response



PATIENT CONFIDENTIALITY:

PROVIDER/PATIENT RELATIONSHIP: 1.

Information obtained during an incident that pertains to statements or observations made regarding the patient's appearance, chief complaint, physical assessment, symptoms or treatment is considered **privileged patient information**. (From NEW MEXICO EMERGENCY MEDICAL SERVICES GUIDELINES; OPERATIONS; Updated November 2012)

The interpretation of a patients confidentiality under the Inspection of Public Records Act (IPRA) depends on the readers interpretation.
City of Albuquerque ruling is that it is not legally protected.

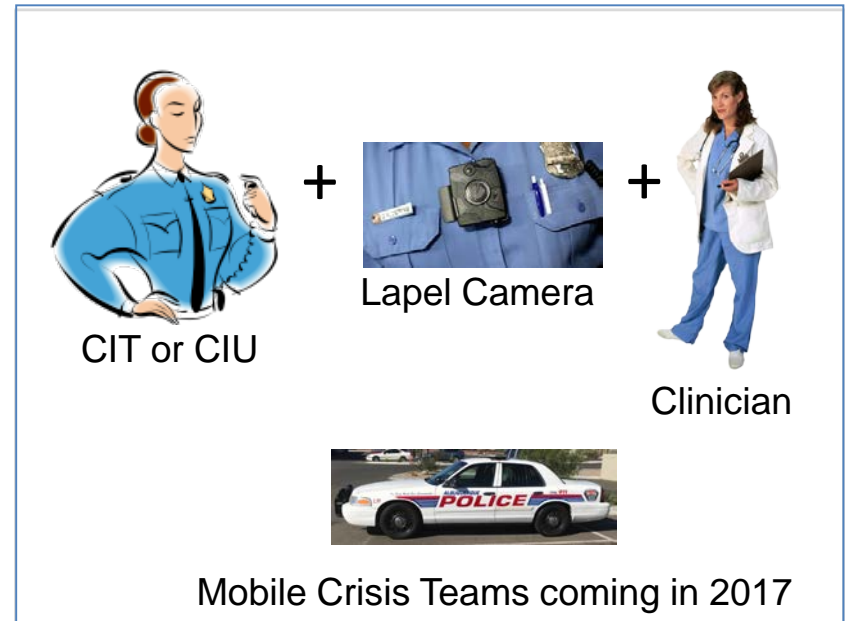
The Problem: Personal Mental Health Information is not Protected when Law Enforcement is Involved.

Near Future Situation

Physical Health



Mental Health



PATIENT CONFIDENTIALITY:
PROVIDER/PATIENT RELATIONSHIP: 1. Information obtained during an incident that pertains to statements or observations made regarding the patient's appearance, chief complaint, physical assessment, symptoms or treatment is considered privileged patient information. (From NEW MEXICO EMERGENCY MEDICAL SERVICES GUIDELINES; OPERATIONS; Updated November 2012)

Mental Health Parity



New Mexico needs to clarify how privileged patient mental health information is protected when law enforcement is involved. Thus, **the proposed amendment to IPRA.**

Situation throughout the State for Mental Health Calls

- There are different levels of response:
 - Law enforcement officer with little CIT training and with possible audio recorder.
 - Law enforcement officer with CIT training and audio recorder.
 - Law enforcement officer with CIT training, audio recorder and access to separate mobile crisis response team.
 - Law enforcement officer with CIT training, lapel camera, and access to separate mobile crisis response team.
 - Law enforcement officer with CIT training, lapel camera, and partnering with clinician to form mobile crisis team.

History

- First concern was raised by a peer at a fall 2016 Mental Health Response Advisory Committee (MHRAC).
 - Reviewing SOP on use of lapel cameras when interacting with people living with a mental illness.
 - Camera's always **ON** and may be capturing private mental health information on behavioral health calls for service.
 - For everyone's safety, as much information as necessary may be given to the police by family or friends, which may include past mental health diagnosis, etc.
- Inspection of Public Records act was found to be ambiguous on whether the private mental health information is protect.
- Research of NM statutes dealing with law enforcement, mental health and confidentiality, did not clarify the issue. This situation was very unsatisfying for both the peers and families, along with law enforcement.
- With this research the Bernalillo County Forensic Intervention Consortium (BC FIC) was engaged.
- A member of the New Mexico Criminal Defense Lawyers Association offered to pen an amendment to IPRA. That is the basis for this legislation.
- Bernalillo County Legal Dept. has graciously taken the lead in facilitating meetings that lead to this initiative.

Organizations that have been Involved

Mental Health Response Advisory Committee:

1. CABQ Department of Family & Community Services
2. Depression, Bi-polar Support Association
3. National Alliance on Mental Illness – Albuquerque
4. Disability Rights New Mexico
5. New Mexico Solutions
6. UNM Department of Psychiatry
7. Rock at Noon Day
8. APD Crisis Intervention Unit (CIU)
9. APD Behavioral Health Division
10. APD/C.O.A.S.T.

New Mexico Criminal Justice Association
(one member drafted proposed legislation)

Bernalillo County Forensic Intervention Consortium:

1. National Alliance on Mental Illness
2. Albuquerque Police Department
3. Second Judicial District Court
4. Bernalillo Metropolitan Court
5. Metropolitan Detention Center
6. Metropolitan Detention Center Behavioral Health Contractor
7. Public Defender Law Office
8. UNM Psychiatric Center
9. Second Judicial District Attorney Office
10. City of Albuquerque Family & Community Services
11. Bernalillo County Public Safety Department

Proposed IPRA amendment to Protect Mental Health Information

- Insert section in IPRA statute dealing with mental illness and law enforcement interactions.
- Clarify the extent of law enforcement records.
- Defining access to law enforcement records for criminal and civil cases and the protection of personal mental health information.
- Defining the protection of personal identifier information contained in public records.

Questions?