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How to Talk to the Police

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SUMMARY

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I. Introduction.

A. “Unexpected” similarities between mental health professionals and law enforcement officers.
   1. Each is always on duty.
   2. People may be intimidated or feel anxious or judged by each of them.
   3. People may feel a need to be on good behavior around them.
   4. Parenthetically, clergy fall into this category as well.

B. Police and mental health clinicians have different jobs to do.
   1. Both are professionals.
   2. Both have cultures, and ethical and professional callings.
   3. Things work best between them when they treat each other as professionals.

C. Cultivate a working relationship with the police force(s) in your area by setting up meetings in non-urgent situations so that you can each respond better to the other when the need is urgent.

II. HIPAA – The Health Insurance Portability and Accountability Act of 1996.

A. “PHI” – Protected Health Information.
   1. Individually identifiable information about a person obtained as part of providing health care or services to the person.
      a. Psychological and medical information.
      b. Demographic information.
      c. Financial information.

B. HIPAA (Federal) and state laws regulate disclosures of PHI.

C. You should document in some way what you disclose and to whom.

III. When you have to call the police urgently.

A. Call police when you need help.

B. Remember that the goal of the police is to maintain safety, and to apprehend criminals (if this is relevant).
   1. Police will only spend as much time on the case as they need.
   2. Police want to get back on the street as soon as they can and not be tied up unnecessarily.

C. Before or when police arrive, you should give them the information they **need to know** in order to perform their work competently and safely.
   1. Give information about why you called them and what help you need.
   2. If you have information about what you think might be helpful to police officers, be sure to offer that.
      Examples: likely presence or absence of weapons; "this man's bark is bigger than his bite"; "he tends to get upset if there are too many uniforms around".
   3. Once you call the police, the ownership of the case will shift. You will lose some control of the mental health issues since the police will be in charge of safety, management, and possibly disposition.
   4. Information about **diagnosis** (in contrast to behavior) may be irrelevant, and it may not fall in the category of "need to know".
   5. Some items of history may be very important, some others quite irrelevant.
   6. Recent history regarding dangerous behaviors may be very relevant, especially specifics about what is likely to trigger or to de-escalate dangerous behavior.

D. Remember to keep thinking about collaborating **with** police.
   1. Treat them as colleagues.
   2. Keep them informed about what you want from them.
   3. If you want them to wait while you do an evaluation…
      a. …let them know why you are needing their presence.
      b. …give them an estimate of how long it will take.

IV. When the police call you.

A. They may want help dealing with someone on the street who has an apparent mental health issue.
   1. The police may not know what to do with the person.
   2. The question may arise as to whether this person would best be handled primarily through the mental health or through the criminal justice system.
      a. Is the person mentally ill?
      b. If so, is the person's behavior the result of mental illness?
      c. Examples
         i. Questions of dangerousness to self or others.
         ii. A person who is extremely delusional and has broken a shop window.
         iii. A person who is manic, broken a shop window, but has gone off mood stabilizing medication for the fourth time in two years. After the third time and when he was stable and euthymic, he was warned that there would be criminal consequences if broke the law again while manic.
   3. You may share PHI on a "need to know" basis as it is relevant to your collaboration, and as it allows the police to do their work properly and safely.
   4. You should not disclose information beyond what is necessary to deal with the problem at hand.

B. They may want information about a suspect in a criminal investigation.
   1. Determine the urgency of the request.

a. You may release PHI that relates to an urgent need to establish or to preserve safety, and collaborate with the police to solve the mutual problem.
   Example: Might a suspect be dangerous to self or others when apprehended, or if incarcerated?
   Example: Might a person be dangerous if released to the street?
   Example: Might a person need mental health treatment, or just "a talking to" by police?
b. You should be very cautious about releasing information that is not urgent without a proper consent to release information or a court order.
   Example: Police want to know about diagnosis, treatment history, or other personal information about someone in custody in order to develop their case.

2. Remember that mental health clinicians and police have different jobs, both of which are important and necessary.
   a. Mental health clinicians primarily serve their clients (though have a role to serve the community as well) and primarily help people with mental illness.
   b. Police maintain safety and investigate crimes, and primarily serve the community and its needs for safety and justice.
3. Be in a collaborative mode, and remind police that information obtained without proper permission might not be admissible as evidence.

V. When you report to the police.

A. When you have an option to report.
1. Issues with reporting.
   a. Reporting may serve important community-safety interests.
   b. Reporting takes some measure of control out of the hands of clinicians.
   c. Over-reporting can deter people from seeking needed treatment, and hence can be counter to the aim of clinical work.
2. Specific situations that you may report without consent of the client.
   a. Dangerous drivers (physicians only, and to DOT only, not to police).
   b. Threats to harm self or public at large.
   c. Suspected child abuse, when you have not seen the child but have evidence about it.

B. When you are **required** to report.
1. Imminent risk of danger to anyone.
2. Suspected child abuse, when you have seen the child.

Wisconsin Statutes:
http://www.legis.state.wi.us/rsb/Stats.html

48.981(2)(a)
(a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3):

48.981(2m)(a)
(a) The purpose of this subsection is to allow children to obtain confidential health care services.

3. Elder abuse when you have seen the adult, if you believe the elderly person is not competent to make a choice about whether to report, unless you believe reporting would not be in the best interests of the person at risk (Wisc. Stats. 46.90(4)). If you don't report, note why.
4. Threats to harm others that involve a duty to protect ("Tarasoff issues", often cited incorrectly as "duty to warn"), which may be satisfied by…
   a. having police initiate an emergency detention.
   b. reporting the threat to police.
   c. warning those threatened.

C. When clients disclose information to mental health professionals about criminal behavior…
   1. In general, this is privileged information and is not disclosed to police.
   2. An exception might be when there is imminent danger.
   3. Get legal consultation if possible before reporting, or have a client get legal counsel.

D. In all cases, remember to disclose only information that police need to know, and document what is disclosed and why.