

**AGENCY REPORT**  
**(due on or before July 31, 2020)**

<b>Agency:</b>	New York City Department of Health and Mental Hygiene		
<b>Agency Privacy Officer:</b>	Nicholas Elcock		
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<b>Date of Report:</b>	7-31-2020		

<b>1. Specify the type of identifying information collected or disclosed (check all that apply):</b>	
<input checked="" type="checkbox"/> Name <input checked="" type="checkbox"/> Social security number (full or last 4 digits)*	<b><u>Work-Related Information</u></b> <input checked="" type="checkbox"/> Employer information <input checked="" type="checkbox"/> Employment address
<b><u>Biometric Information</u></b> <input checked="" type="checkbox"/> Fingerprints <input checked="" type="checkbox"/> Photographs	<b><u>Government Program Information</u></b> <input checked="" type="checkbox"/> Any scheduled appointments with any employee, contractor, or subcontractor <input checked="" type="checkbox"/> Any scheduled court appearances <input checked="" type="checkbox"/> Eligibility for or receipt of public assistance or City services <input checked="" type="checkbox"/> Income tax information <input checked="" type="checkbox"/> Motor vehicle information
<b><u>Contact Information</u></b> <input checked="" type="checkbox"/> Current and/or previous home addresses <input checked="" type="checkbox"/> Email address <input checked="" type="checkbox"/> Phone number	<b><u>Law Enforcement Information</u></b> <input checked="" type="checkbox"/> Arrest record or criminal conviction <input checked="" type="checkbox"/> Date and/or time of release from custody of ACS, DOC, or NYPD <input checked="" type="checkbox"/> Information obtained from any surveillance system operated by, for the benefit of, or at the direction of the NYPD
<b><u>Demographic Information</u></b> <input checked="" type="checkbox"/> Country of origin <input checked="" type="checkbox"/> Date of birth* <input checked="" type="checkbox"/> Gender identity <input checked="" type="checkbox"/> Languages spoken <input checked="" type="checkbox"/> Marital or partnership status <input checked="" type="checkbox"/> Nationality <input checked="" type="checkbox"/> Race <input checked="" type="checkbox"/> Religion <input checked="" type="checkbox"/> Sexual orientation	<b><u>Technology-Related Information</u></b> <input checked="" type="checkbox"/> Device identifier including media access control MAC address or Internet mobile equipment identity (IMEI)* <input checked="" type="checkbox"/> GPS-based location obtained or derived from a device that can be used to track or locate an individual* <input checked="" type="checkbox"/> Internet protocol (IP) address* <input checked="" type="checkbox"/> Social media account information
<b><u>Other Types of Identifying Information</u></b> (list below): medical identification number, NYEIS ID, date of services, diagnosis, medical history, other health and billing information, ethnicity, dates of hospitalizations and emergency department visits, sex partners status and contact information, immunization information, travel history, HIV status, phone number, fax number, email address, medical insurance number, tax identification number, employer identification number, inmate identification number, marriage license information, geo-location, child support information, medical license number; Medicare and Medicaid ID, SSI information, disability information, welfare information, food stamps information, information for NYCHA rent bill and Section 8 voucher, W2 information; death certificate, dependent and beneficiary information.	
*Type of identifying information designated by the CPO (see CPO Policies & Protocols § 3.1.1).	

**2. Specify the reasons why collection and retention of identifying information specified above furthers the purpose**

**Identifying Information Law**

**or mission of your agency.**

Section 556 of the Charter of the City of New York (“Charter”) authorizes DOHMH (“agency”) to “regulate all matters affecting health in the city of New York and to perform all those functions and operations performed by the city that relate to the health of the people of the city, including but not limited to the mental health, mental retardation, alcoholism and substance abuse-related needs of the people”. The Charter further authorizes DOHMH, among other things, to “enforce all provisions of law applicable...for the preservation of human life, for the care, promotion and protection of health”, and to “supervise and control the registration of births, fetal deaths and deaths”, and to “supervise the reporting and control of communicable and chronic diseases and conditions hazardous to life and death” and “exercise control over and supervise the abatement of nuisances affecting or likely to affect the public health.” Pursuant to these core missions, DOHMH requires the reporting of numerous diseases and conditions by health care providers, laboratories, etc. (E.g., New York City Health Code Articles 11 and 13). DOHMH uses this information for the purposes of conducting surveillance, contact investigation, responding to outbreaks, etc. DOHMH protects the confidentiality of this information in accordance with applicable laws and regulations (See New York City Health Code Articles 3 and 11).

In accordance with the powers and duties bestowed by the Charter, DOHMH collects and retains a wide variety of identifying information. For example, the agency collects and retains identifying information to provide services and referrals for city residents through projects in collaboration with community partners. The agency also collects and retains identifying information to conduct research and evaluation studies. If the project is deemed human subjects research, it is reviewed by the agency’s Institutional Review Board in accordance with relevant federal regulations (See 45 CFR Part 46).

The agency maintains public health registries (such as the HIV/AIDS Registry) which require the collection and retention of identifying information. These registries are afforded very strict confidentiality (See Public Health Law §2135 and 10 NYCRR §63.4 regarding HIV/AIDS registry).

The agency further collects and retains identifying information as patient health information which is necessary to provide medical care and related services at the agency’s diagnostic treatment centers (or clinics) operated pursuant to the New York State Public Health Law. As a provider of medical care, the agency is required by the New York State Public Health Law, implementing New York State Department of Health regulations and the federal HIPAA regulations to maintain the confidentiality of medical records of its patients.

The agency further collects and retains identifying information for the purpose of permitting and licensing individuals and businesses for mobile food vending, dog licensing, day care centers, and many other activities. The identifying information is necessary for the agency to maintain inspection records, records of fines owned the city and any violations of the New York City Administrative Code or Health Code or the New York State Sanitary Code. The information is further necessary to monitor compliance with sanitary and safety regulations and to litigate cases against license and permit holders at OATH and other courts.

The agency also collects and retains identifying information for the purpose of recording all births and deaths within the city. Identifying information is further collected and retained to make population based estimates by various demographic groups and geographical areas for the purpose of measuring, tracking and reporting changes in health for public health surveillance.

The agency collects and retains identifying information to provide and promote mental health and developmental disability services within the city pursuant to its authority under the Charter and the New York Mental Hygiene Law. Identifying information is used to monitor specific persons with mental illness in the Assisted Out-patient Treatment (AOT) program, to assign and refer clients to service providers, and to respond to city residents with mental health issues and escalating violence. The agency also uses the information to evaluate and monitor providers of mental health services, to eliminate gaps in services, and to reduce the involvement of persons with mental health or substance abuse in the criminal justice system.

**Identifying Information Law**

The agency collects and maintains identifying information of members of the agency's workforce for the purpose of compliance, providing assistance and services to staff, hiring and termination of staff members, and to process leave and benefits of agency employees.

N.Y.C. Admin. Code §23-1205(a)(1)(f)

**3. Describe the types of collections and disclosures classified as: (1) pre-approved as “routine,” (2) pre-approved as routine by APOs of two or more agencies, or (3) approved by the APO on a case-by-case basis. Appendix B of the 2020 Agency Guidance includes detailed examples of routine and non-routine collections and disclosures, with descriptions.**

**Add additional rows as needed.**

Describe the Collection or Disclosure	Classification Type
The agency collects and discloses health related identifying information from and to providers of medical and mental health services for the purpose of providing such services to persons enrolled in agency programs, or persons seeking referrals for such services. These providers may be hospitals, physicians, mental health programs, substance abuse programs, care coordination programs, etc.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
The agency collects and discloses identifying information from and to government agencies, other public health authorities, individuals, medical providers in relation to reportable disease surveillance, case and contact management, linkage to care and treatment, and outbreak investigations.	<input checked="" type="checkbox"/> Pre-approved as routine <input checked="" type="checkbox"/> Approve as routine by two or more agencies <input checked="" type="checkbox"/> Approved by APO on a case-by-case basis
The agency discloses identifying information (such as mental health information) in various legal proceedings in state supreme court in accordance with state law (such as Mental Hygiene Law and New York CPLR).	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
The agency discloses identifying information (such as permit and licensed business information) in administrative law proceedings at OATH and the Health Tribunal. The disclosures are legally required under specialized rules for production of discovery to respondents in administrative law proceedings and permitted as evidence in the proceedings.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
The agency collects and discloses identifying information from and to its contractors and consultants which provide services to persons enrolled in agency programs or to persons needing human services, including medical, mental health and related services and where the information is required for the contractor or consultant to provide the services. The agency also discloses identifying information to contractors providing services such as technology services and software in which the disclosure is necessary for delivery of the services and software. The agency requires data privacy and security agreements in place with contractors and consultants such as non-disclosure agreements, cloud service agreements, and where disclosure of the agency’s HIPAA protected patient information is permitted, a business associate agreement is required. Disclosures to contractors and consultants are both pre-approved as routine, and in some instances, approved by APO on a case-by-case basis.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input checked="" type="checkbox"/> Approved by APO on a case-by-case basis
The agency discloses identifying information to organizations and persons conducting scientific research (such as universities, colleges, and grant-funded researchers) when such disclosure is legally permissible (such as the disclosure of identifying vital records information pursuant to the New York City Health Code). The agency requires researchers to sign a data use agreement with limits their use and disclosure of the information. Disclosures to researchers are both pre-approved as routine, and in some instances, approved by APO on a case-by-case basis. If the project is deemed human subjects research, it is reviewed by the agency’s Institutional Review Board in accordance with applicable federal regulations (See 45 CFR Part 46).	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input checked="" type="checkbox"/> Approved by APO on a case-by-case basis
The agency discloses indenting information when directed by a validly issued judicial subpoena or court order. These subpoenas and orders may be for any records that the agency maintains including student health records, patient health information protected by HIPAA, or other records. Compelled disclosures by subpoenas and court orders are	<input type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input checked="" type="checkbox"/> Approved by APO on a

**Identifying Information Law**

reviewed on a case-by-case basis to ensure that the information sought is the minimum necessary to comply with the subpoena or court order and to ensure that the records are not protected from compelled disclosure by federal or state law.	case-by-case basis
The agency may disclose identifying information to the person to whom the information relates when that person (or their parent if the person is a minor, or their legal guardian) requests the information. The agency may also disclose the information to any person or entity that is authorized to receive it by the person to whom the information relates. This is usually achieved by a written consent to release, such as a HIPAA authorization. Disclosures to or directed by the person to whom the information relates may be pre-approved as routine or may require approval by APO on a case-by-case basis to ensure that the person has a legal right to the information requested.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input checked="" type="checkbox"/> Approved by APO on a case-by-case basis
The agency collects identifying information from and discloses it to other governmental agencies for various purposes in accordance with the functions and powers of the agency. These may be other city agencies (including the Law Department, DOT, DOE, and DCAS), New York state agencies such as the New York State Department of Health and the New York State Office of Mental Hygiene, or the federal Centers for Disease Control and Prevention in relation to its grant-funded programs at the agency.	<input checked="" type="checkbox"/> Pre-approved as routine <input checked="" type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
N.Y.C. Admin. Code §23-1205(a)(1)(b)	

<p><b>4. If applicable, specify the types of collections and disclosures that have been approved by the Chief Privacy Officer as being “in the best interests of the City” which involve any collections and disclosures of identifying information relating to your agency.</b></p> <p><b>Add additional rows as needed.</b></p> <p><b>Describe Type of Collection or Disclosure</b></p> <p>The Chief Privacy Officer has approved as being “in the best interest of the City” a disclosure by the Department of Finance (DOF) to the Department of Health and Mental Hygiene (DOHMH) of certain DOF employee information provided that DOF securely transmitted the information to DOHMH and that DOHMH agreed to maintain the confidentiality and security of the information and not disclose such information except for the purpose for which it was disclosed.</p>
N.Y.C. Admin. Code §23-1202(b)(2)(b); 23-1205(a)(1)(b)

<p><b>5. Describe the agency’s current policies regarding requests for disclosures from other City agencies, local public authorities or local public benefit corporations, and third parties.</b></p> <p>The agency requires that disclosures of confidential information (which includes most identifying information) outside the agency be supported by a legal basis, which means that a law, regulation, or judicial order (or legal opinion binding on the agency) must permit, require, or not specifically prohibit the disclosure. The agency’s confidentiality policy (and the confidentiality policies of the agency’s programs) instruct agency staff not to disclose confidential information unless legally permitted or required. Agency staff become aware of what disclosures are legally permitted or required by training for their respective position in the agency. Access to the agency’s databases where the information is contained is restricted to only those staff members that are required</p>
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to access the information. The databases are monitored and audited. Physical records containing confidential identifying information are required to be kept in locked cabinets when not in use by staff authorized to use such records. Agency staff receive confidentially training and also HIPAA training when the agency's patient health information will be accessed. If staff is unsure about whether disclosure of confidential identifying information is legally permitted or required, staff must consult with the agency privacy officer and/or the General Counsel and/or Deputy General Counsel before disclosing such information. The agency requires that only the minimum necessary identifying information be disclosed. Further, the agency may require that a data privacy and security agreement be entered into between the agency and other City agencies (such as an MOU) that limits the use and disclosure of the information by the recipient city agency. Third parties that are not city agencies are required to sign a formal data use agreement or other data privacy and security agreement before disclosure of the information.

6. Do the above policies address access to or use of identifying information by employees, contractors, and subcontractors?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7. If YES, do such policies specify that access to such information must be necessary for the performance of their duties?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8. Describe whether the policies are implemented in a manner that minimizes such access to the greatest extent possible while furthering the purpose or mission of the agency.	The policies limit the disclosure of identifying information to only that information that is needed to accomplish the purpose of the disclosure. The policies require agency staff to disclose only what is legally permitted or required and only the minimum necessary to achieve the purpose of the disclosure.

N.Y.C. Admin. Code §§23-1205(a)(1)(c)(1), and (4)

**9. Describe the agency's current policies for handling proposals for disclosures of identifying information to other City agencies, local public authorities or local public benefit corporations, and third parties.**

Proposals to receive identifying information are vetted by the specific agency program that wants the information. The general counsel's office and agency privacy officer may be consulted to assist with the requests. In some instances, the agency's request for information may be based upon a legal obligation by a party to disclose such information to the agency, such as when the agency has a valid consent to release information from participants enrolled in its programs, or for medical records related to reportable diseases and conditions or outbreak investigations.

N.Y.C. Admin. Code §23-1205(a)(1)(c)(2)

**10. Describe the agency's current policies regarding the classification of disclosures as necessitated by the existence of exigent circumstances or as routine.**

Routine disclosures of confidential identifying information are those that are supported by a legal basis (law, regulation, judicial order, or person's consent) and that is consistent with the public health powers and functions of the agency. A unforeseen emergency may result in an exigent circumstance, but the disclosure of confidential identifying information under an exigent circumstance must be supported by a legal basis, which may be the occurrence of the exigent circumstance itself (such as a medical emergency), in which case the agency will review the appropriateness of disclosure of confidential identifying information.

N.Y.C. Admin. Code §23-1205(a)(1)(c)(3)

**11. Describe the agency's current policies regarding which divisions and categories of employees within an agency make disclosures of identifying information following the approval of the privacy officer.**

Various levels of employees may be assigned the responsibility of doing the action of disclosing the information (such as accessing databases and printing or emailing such information) but these employees are under the supervision of management who have the training and expertise to recognize what is a routine disclosure with respect to their program. All employees are given confidentiality training and are instructed to consult with the agency privacy officer and/or General Counsel's Office for questions of whether the disclosure of confidential identifying information is legally permitted or required. If there is a legal basis, agency management may decide whether the disclosure is consistent with the purpose of the agency and may decide not to disclose, provided such disclosure is not legally required.

N.Y.C. Admin. Code §23-1205(a)(1)(c)(4)

**12. Describe whether the agency has considered or implemented, where applicable, any alternative policies that minimize the collection, retention, and disclosure of identifying information to the greatest extent possible while furthering the purpose or mission of such agency.**

The agency has not considered alternative policies as the current polices minimize the collection, retention, and disclosure of identifying information while furthering the purpose of the agency.

N.Y.C. Admin. Code §23-1205(a)(4)

**13. Describe the agency's use of agreements for any use or disclosure of identifying information.**

The agency's contracts limit the vendor's use and disclosure of identifying information to fulfil the vendor's obligation under the contract. When a vendor requires access to the agency's patient health information protected by HIPAA, the agency and vendor enter into a HIPAA business associate agreement which limits the use and disclose of such information by the vendor. The agency requires a cloud service agreement be signed by vendors providing IT cloud service in which identifying information is hosted. The cloud service agreement requires the vendor to maintain a minimum level of data security through updated technology and further requires the vendor to notify the agency of any unauthorized access to the information. Other agreements used include data use agreements (for scientific researchers using identifying information), non-disclosure agreements, material transfer agreements (for biological specimens and related data), and the citywide appendix A with data confidentiality provisions. The agency uses MOUs for sharing identifying information with other city agencies. Vendors providing human services are required to agree to the citywide Identifying Information Law rider.

N.Y.C. Admin. Code §23-1205(a)(1)(d)

**14. Using the table below, specify the types of entities requesting the disclosure of identifying information or proposals for disclosures of identifying information, and for each entity, describe (1) the reasons why an agency discloses identifying information to such entity, and (2) why any such disclosures furthers the purpose or mission of such agency.**

**Add additional rows as needed.**

Type of Entity	Description of Reason for Disclosure	Description of how disclosure furthers the purpose or mission of the agency
Providers of medical and mental health services (which may be hospitals, physicians, mental health programs, etc.)	The agency discloses health related identifying information to providers of medical and mental health services for the purpose of providing such services to persons enrolled in agency programs, or persons seeking referrals for such services. These providers may be hospitals, physicians, mental health programs, substance abuse programs, care coordination programs, etc.	The disclosures allow the agency to fulfill the powers and duties given to the agency in the Charter.
Courts, administrative law agencies (state supreme court, OATH, Health Tribunal, etc.)	The agency discloses identifying information (such as mental health information) in legal proceedings in state court. The agency also discloses identifying information (such as permitted and licensed business information) in administrative law proceedings at OATH and the Health Tribunal. The disclosures are legally authorized and, in the case of administrative hearings, pursuant to specialized rules for production of discovery.	The Mental Hygiene Law authorizes the agency to connect persons with mental illness to mental health treatment and to make contracts with providers to provide those services.  The Charter, Health Code, and NYC Administrative Code, Public Health Law and State Sanitary Code authorize the agency to conduct sanitary inspections of restaurants and mobile food vendors to ensure compliance with sanitary handling and maintenance of food served to the public; and to ensure day care centers and programs are maintained for the health and safety of children. The Charter also authorizes the agency to abate nuisances to public health.
Contractors/Consultants/Vendors	The agency discloses identifying information to its contractors and consultants who provide services to persons enrolled in agency programs or to persons needing human services, including medical, mental health and related services and where the information is required for the contractor or consultant to provide the services. The agency also discloses identifying information to contractors providing services such as technology services when the disclosure is necessary for delivery of the services.	The disclosures allow the agency to fulfill the powers and duties given to the agency in the Charter.
Research organizations (e.g., universities, colleges, grant-	The agency discloses identifying information to research organizations such as universities, colleges,	The disclosures allow the agency to fulfill the powers and duties given to the agency in the Charter.



funded researchers)	and grant-funded researchers, etc., when such disclosure is legally permissible, such as the disclosure of vital records information pursuant to the New York City Health Code. If a project involves human subjects research, it will be reviewed by the agency's Institutional Review Board in accordance with applicable federal regulations.	
Governmental agencies	The agency discloses identifying information to governmental agencies for various purposes in accordance with the functions and powers of the agency. These may be other city agencies (including the Law Department, DOT, DOE, and DCAS). The agency also discloses identifying information to New York state agencies such as New York State Department of Health and the New York State Office of Mental Hygiene. The agency discloses information to federal oversight agencies such as the federal Centers for Disease Control and Prevention.	These disclosures allow the agency to fulfill the powers and duties given to the agency in the Charter or are required by law.
Public Health	The agency discloses identifying information to various entities and person (including governmental agencies, medical providers, other public health agencies, etc.) in relation to reportable disease surveillance, case and contact management, linkage to care and treatment, and outbreak investigations.	These disclosures allow the agency to fulfill its public health powers and duties given to the agency in the Charter or are required by law.
N.Y.C. Admin. Code §23-1205(a)(1)(e)		

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**15. Describe the impact of the Identifying Information Law and other applicable laws upon your agency's practices in relation to collection, retention, and disclosure of identifying information.**

The Identifying Information Law has reinforced the agency's practices including the agency having a privacy officer, confidentiality policies, data privacy and security agreements, and other controls in place for the collection, disclosure, and retention of identifying information in accordance with the Identifying Information Law.

N.Y.C. Admin. Code §23-1205(a)(2)

**16. Describe the impact of the privacy policies and protocols issued by the Chief Privacy Officer, or by the Citywide Privacy Protection Committee, as applicable, upon your agency's practices in relation to the collection, retention, and disclosure of identifying information.**

The privacy policies and protocols issued by the Chief Privacy Officer has reinforced the agency's practices including the agency having a privacy officer, confidentiality policies, data privacy and security agreements, and other controls in place for the collection, disclosure, and retention of identifying information in accordance with the Identifying Information Law.

N.Y.C. Admin. Code §23-1205(a)(3)

**APPROVAL FOR AGENCY REPORT**

**Preparer of Agency Report:**

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**Agency Head (or designee):**

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