

CONFIDENTIALITY POLICY

I. PURPOSE

The purpose of this policy is to ensure the safety of women and other survivors, who have been sexually assaulted and/or battered and their children. This policy provides guidelines for advocates so that any requests for assistance are dealt with respectfully, as relatives. Policy around confidentiality reflects the reality that domestic violence, and violence against native women is a crime. Our actions as advocates must always be mindful that a survivor's safety may be dependent upon our safeguarding information regarding her/his whereabouts or situation.

It is the intention of this policy to hold all communications, observations and information made between, by or about survivors who are the recipients of shelter/outreach advocacy as paramount to the safety of the woman/survivor. All communications, regardless of form, and whether between adults or children, advocates, volunteers, safehouse-providers, student interns or board members of [name of program], are to be held in trust and are confidential.

II. WHAT IS CONFIDENTIALITY?

Confidentiality is defined as the assurance that the access to information regarding a person utilizing shelter/program advocacy shall be strictly controlled and that any violation is not only a breach of faith but has the potential to threaten the safety and life of survivors and their children.

III. WHAT IS INFORMED CONSENT?

Informed consent means being provided and understanding all relevant information about the nature and consequences of signing a release of information. This includes advising her/him to consider how the information may be used once released from the shelter/program to enhance her/his safety and the possibility of the batterer obtaining the information.

IV. FEDERAL LEGAL CONSIDERATIONS

All policies and procedures regarding confidentiality shall consider the Family Violence Prevention and Services Act (FAPSA), the Victims of Crime Act (VOCA) including Victims Assistance in Indian Country (tribal set-aside), and Violence Against Women Act (VAWA) 2013. Note that violations of these regulations may result in loss of funding.

FVPSA: "...ensure confidentiality of records pertaining to any individual who is provided prevention or treatment services by any program assisted under the Act (and) that the address or location of any shelter facility will not be made public except upon written authorization from the persons responsible for operating the shelter."

VOCA/VAIC: "... (a) to protect privacy of individuals by requiring that information identifiable to a private person obtained in research or statistical program may only be used and/or revealed for the purpose for which obtained; (b) to insure that copies of such information shall not, without the consent of the person for whom that information be admitted as evidence or used for any purpose in any judicial or administrative proceeding...and (f) to insure the confidentiality of information provided by crime victims to crisis intervention counselors working for victim services programs receiving funds under (the Act).

VAWA 2013: "... (a) to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees... shall protect the confidentiality and privacy of persons receiving services. (b) ... grantees ... shall not (i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' ...programs; or (ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) ... except that consent for release may not be given by the

abuser of the minor, person with disabilities, or the abuser of the other parent of the minor. (c) ... If release of information is compelled by statutory or court mandate (i) grantees ... shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and (ii) grantees... shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information. (d) ... Grantees... may share (i) non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements; (ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and (iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

V. INTER-AGENCY COOPERATION PRIORITIZING CONFIDENTIALITY and SAFETY

To promote inter-agency cooperation and avoid misunderstandings or conflict, the [name of program] will facilitate in-services on a semi-annual basis with programs and agencies that survivors routinely interact with. The purpose of these sessions is to familiarize others with [name of program], review this confidentiality policy and assist them, as needed, in developing their information gathering and communication policies and procedures regarding survivors, so they get necessary information/communicate without violation of this confidentiality policy (i.e., pre-arranged appointments, leaving messages, direct communication with survivors rather than attempting to get information from advocates, etc.).

PROGRAM CONFIDENTIALITY POLICY

1. Shelter/program confidentiality policies apply to all advocates, other department staff, including administration, volunteers, safehouse-providers, student interns and board of directors. This policy shall apply to any information provided by a survivor who is sexually assaulted and/or battered to any employee of [name of program]. [Name of program] shall be considered the guardian of this information. As such, employees shall make every effort to safeguard the information and function within the guidelines of this policy.
2. Methods of determining eligibility, statistical or other information that does not identify an individual is not considered confidential.
3. Any personal documentation, such as birth certificates, social security numbers, copies of divorce decrees, etc., shall be maintained in a separate and locked file and *only at the survivor's request*. These documents are not program property and shall be returned or utilized by the individual upon request.
4. Documentation/records shall contain minimal information and the documentation must be directly related to the violence perpetrated against the survivor, including description of injuries, statements regarding the assault, history of violence, threats, etc., and response by law enforcement and other agencies for purposes of development of the coordinated community response, training, policy and procedure. Advocates shall show survivors any written information after the form has been completed. At no time shall information be recorded that contains any subjective progress or observation notes.
 - a. Documentation should follow the principle of "do no harm." Advocates should consider the possible consequences should documented information be released, presented in a court case, or made available to the service recipient's abuser.
 - b. Documentation should focus on the program's service provision, including type of service, date of service, how often service is provided and who provided the service.

6. Documentation or records shall be locked and accessed ***on a need-to-know basis***. NO person, regardless of relationship, employment, educational, political or social status shall have access to this information without a signed release of authorization; this includes relatives and systems personnel such as law enforcement, social services, court, etc. Any information released shall be used only for the purpose intended by the survivor authorizing the release of information with her/his informed consent. ***Blanket releases are prohibited.***
7. Service recipients must be informed of and allowed to exercise their rights to inspect their personal records and/or files, request changes or additions to the content of those records, submit rebuttal data or memoranda to their files, and/or file a grievance according to the program's policies if objections are made to the content of those records or files.
8. Service recipients have the right to receive a copy of their personal information, including file or records, upon written request with a signed release of information. Domestic violence advocates should discuss risks and benefits of releasing the record before the information is released.
9. If an attempt is made to serve a court order, summons, subpoena and/or warrant regarding an individual in shelter or receiving advocacy services, the advocate will inform the person attempting to make service of [program name] confidentiality policy (see #7) and refuse service - "We don't give out information. I can take a message but that doesn't confirm or deny that she/he is here or receiving services. I cannot accept service of any individual's legal paperwork." The advocate shall immediately inform a supervisor and/or program Director. If the person in question is in shelter or receiving advocacy services, she/he shall be informed of the attempted service. Referrals for legal services will be made, per the request of the individual.
10. Callers inquiring about an individual and/or her /his children shall be told: "We cannot give out information. I can take a message but that doesn't confirm or deny that she/he is here or receiving services."
8. Any victim/survivor seeking outreach advocacy, including legal, medical, social, housing or any other face-to-face advocacy and any person participating in support groups or any other educational, informational or supportive services type offerings of the organization shall be advised of the purpose and substance of this confidentiality policy, not only as it pertains to that individual but in relationship to any other person s/he may encounter in the course of obtaining personal safety.
9. Advocates, staff and volunteers' discussions and communication regarding services provided to individuals will occur in appropriate and private locations to maintain confidentiality.
10. Possible Exceptions:
 - Emergencies which are life threatening or could result in serious bodily harm. To the extent possible, emergency services should be contacted without revealing any confidential information about any program participant. In many cases, the survivor should be conscious and able to speak with Emergency Medical Technicians (EMT). It is important to remember that even if it is appropriate to call 911, it is never appropriate to share a survivor's whole case history or file. In addition, it is not appropriate to specifically comment on why she/he was receiving assistance from your organization.
 - Mandatory reports to Children's Protective Services in cases of child abuse and neglect. Any report shall only be made according to the child abuse and neglect reporting law by the Program Director. In the event that a person seeking advocacy is suspected of child abuse and/or child sexual abuse, the supervisor shall inform the person prior to reporting and advise her/him of the option to self-report. The supervisor shall offer advocacy.

- Mandatory reports to State/ Tribal Department of Social Services in cases of the abuse of an elder or adult with disabilities. Any report shall only be made according to the reporting law by the Program Director.
 - Crimes committed in the shelter. To the extent possible, criminal activity that must be reported to law enforcement will be reported without revealing any confidential information about any victim in shelter. Staff may disclose confidential information when there is a crime being committed in the shelter and it has been determined that law enforcement should be involved. The determination of whether to involve law enforcement should only be made by the Executive Director.
11. All survivors entering shelter and/or receiving advocacy shall be informed of this confidentiality policy, including exceptions, as part of their orientation to our program, and shall sign a written statement agreeing to maintain the confidentiality of others who also are provided with services by the program. [A domestic violence shelter or program additionally may require a person receiving services to maintain the confidential location of the shelter or program if it is not publicly disclosed.]
 12. The release of information of a minor child must include fully informed, time-limited, written consent and signature of both the child and parent or guardian.
 1. Consent for the release of information is prohibited from being given by the abuser of the minor or the abuser of the minor’s custodial parent.
 13. Written records of services provided in individual, group and/or family settings must be maintained in a secure, locked storage area that is accessible only by paid staff members employed to provide advocacy and direct services, authorized volunteers, administrative personnel directly responsible for billing for services provided, and administrative or executive staff members responsible for supervision and/or internal review of service records for quality-assurance purposes.
 14. When used, electronic records of services provided must be maintained in consultation with information technology professionals to ensure that records are accessible only to those listed above, that the records cannot be accessed remotely by anyone outside of the program, and to ensure that the records are properly destroyed or purged when needed.

My supervisor has reviewed the [name of program] confidentiality policy with me and I understand that this signed acknowledgement will be placed in my personnel file.

I also have been advised that the [name of program] policies and procedures include provisions for immediate dismissal of any [name of program] employee violating confidentiality.

Employee Signature

Date

Supervisor Signature

Date

Based on Cangleska, Inc. confidentiality policy; revised by NIWRC 2021

