

# **Working Together**

A Desk Guide

**Domestic Violence Advocates  
Co-Located at DHS**

Self-Sufficiency & Child Welfare

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*Against Domestic & Sexual Violence*

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# CONTACT INFORMATION

- STATE AND NATIONAL CONTACT LIST
- LOCAL CONTACT LIST

## **STATE AND NATIONAL CONTACT LIST**

<b>DEPARTMENT OF HUMAN SERVICES (DHS)</b>		
<b>NAME</b>	<b>PROGRAM</b>	<b>TELEPHONE</b>
Stephanie Hoskins	Field Services / Co-located Advocates	(503) 945-6274
Carol Krager	Self-Sufficiency / TANF & TA-DVS	(503) 945-5931
Cheryl O'Neill	Child Welfare	(503) 945-6686

<b>OREGON DOMESTIC AND SEXUAL VIOLENCE CONTACTS</b>		
Oregon Coalition Against Domestic and Sexual Violence (OCADSV)	<a href="http://www.ocadsv.org">www.ocadsv.org</a>	(503) 230-1951
Oregon Sexual Assault Task Force	<a href="http://www.oregonsatf.org">www.oregonsatf.org</a>	(503) 990-6541

<b>NATIONAL DOMESTIC AND SEXUAL VIOLENCE CONTACTS</b>		
National Network to End Domestic Violence (NNEDV)	<a href="http://www.nnedv.org">www.nnedv.org</a>	(202) 543-5566
National Sexual Violence Resource Center (NSVRC)	<a href="http://www.nsvrc.org">www.nsvrc.org</a>	(717) 909-0710



# **INTRODUCTION AND BACKGROUND**

- WHAT IS A CO-LOCATED ADVOCATE?
- BENEFITS OF COLLABORATION
- HOW TO USE THIS MANUAL
- PURPOSE OF THE PROGRAM
- GOALS

This Desk Book is designed to give you an overview of co-located Domestic Violence Advocacy within the Department of Human Services. If you have any suggestions for updates, additions or revisions for this Desk Book, please let us know!

## **WHAT IS A CO-LOCATED ADVOCATE?**

Advocates located in DHS offices provide in-depth safety planning, DV education, advocacy and on-going support to DV survivors. Advocates also provide training to staff, increase staff awareness of DV issues and consult on DV-specific issues. Co-location has been piloted in Child Welfare offices and available as funding allowed in Self-Sufficiency offices over the last 15 years. In pilot programs where advocates were co-located in Child Welfare offices, there was an increase in the number of children remaining in the home of the non-offending parent. In Self-Sufficiency offices, co-located advocates have assisted in safety planning, thus supporting a more planned use of Temporary Assistance for Domestic Violence Survivors funds.

## **BENEFITS OF COLLABORATION**

### ***What is collaboration?***

**Collaboration** *requires a group of people with diverse skills, experience and knowledge who are committed to working towards a shared vision.*

Collaboration can:

- Open lines of communication between participants
- Improve relationships
- Increase trust, knowledge and resources.
- Break down barriers between individuals and systems, resulting in better support for families.

## **HOW TO USE THIS MANUAL**

This manual is intended to help Co-located Domestic Violence Advocates and the DHS partners navigate this working relationship. This manual will help navigate some of the past challenges that Co-located Domestic and Sexual Violence Advocates have reported:

- Clarity about the role of the DV Advocate.
- Making sure to keep the line between advocate and caseworker clear and defined.
- The importance of “Voluntary” participation in Domestic and Sexual Violence services.
- Mandatory child abuse reporting

Symbol used to identify when a decision, policy or practice is determined by the local “Leadership Team”:



## **PURPOSE OF THE PROGRAM**

In 2010, the Oregon State Legislature recognized the benefits of co-locating advocates at Child Welfare and Self-Sufficiency offices and provided funding in the 2011-2013 DHS budget to contract with local non-profits throughout the state to provide these much needed services.

Placing domestic violence advocates in child welfare and self-sufficiency agencies is a nationally recognized best practice. These advocates provide on-site direct services to agency clients who identify as victims of domestic violence. The advocates divide their time between DHS offices and their local programs, fostering a closer working relationship between the two systems.

By statute, **all services provided by a domestic violence advocate are to be voluntary.** The purpose of providing these services in Child Welfare and Self-Sufficiency offices is to increase the number of cases in which children will safely remain with the non-offending parent and to remove barriers to self-sufficiency and family stability for clients impacted by domestic violence.

Domestic violence must be identified and addressed in order to increase opportunities for safety and well-being for children and the adult victims. Collaboration with domestic violence experts is necessary to assist Child Welfare and Self-Sufficiency programs to develop case plans that engage parents in achieving safety for themselves and for their children. However, local domestic violence service providers are limited in their capacity to provide the needed support and intervention due to lack of funding that impacts resources including the number of staff available to help survivors. Capacity to provide services varies among individual non-profit domestic violence/sexual assault agencies.

This model has been successfully piloted in Oregon, and has demonstrated an **increase in staff knowledge** especially in regards to:

- the impact of domestic violence on children;
- barriers to women leaving abusive relationships; and
- batterers' use of power and control tactics.

Staff reported women and children were positively impacted as a result of the working with the advocate. **Impacts for women included:**

- increased strategies for enhancing their children's safety;
- having more access to and being more likely to use more services;
- being less anxious about DHS intervention and understanding the DHS process better; and
- having a better understanding of the impact of domestic violence on their children.

In Self-Sufficiency programs over the last several years, many districts have developed local contracts with their DV service providers to try to meet the need for support for domestic violence victims. The funding for this effort has been limited. Although districts found relationships with DV service providers very beneficial for both workers and clients, several of the contracts lapsed, and lack of permanent funding prohibited renewal of the contracts. Benefits identified by local districts that benefited from these local contracts included:

- Improved access for clients to safety planning and intervention services;
- Clients were more likely to access services offered by DHS offices;
- Self-Sufficiency workers developed a better understanding of how the dynamic of domestic violence impact the clients' ability to achieve self-sufficiency; and
- Advocates learned more about self-sufficiency services and, therefore, were better able to assist victims and their children to access benefits.

## GOALS

- Survivors will have better access to support services.
- Survivors and their children will be safer and be more likely to remain together.
- Survivors and their children will be less anxious about DHS and will understand the DHS process better.
- DV agency staff will have greater knowledge of and comfort with DHS policies and procedures.
- DV agency staff will be more likely to refer clients to DHS and vice versa.
- DHS staff will be able to focus on their tasks (accountability for coercive and controlling partners or eligibility for benefits.)
- DHS staff will have a greater level of knowledge about barriers to leaving abusive relationships and the batterers' use of power and control tactics.
- DHS staff will express more compassion regarding the difficulties that survivors face in regards to parenting and be more inclined to hold batterers accountable.
- DHS and domestic violence agencies will work together effectively. Staff from the two agencies will not always agree, but they will respect each other's points of view and strengths.
- DHS and domestic violence agency staff will have more trust and understanding of each other's' role, increased communication and increased cross-referrals.

# **ROLES AND RESPONSIBILITIES**

- CO-LOCATED ADVOCATE SERVICES
- CLARITY OF ROLES AND RESPONSIBILITIES

## **CO-LOCATED ADVOCATE SERVICES**

*“Advocates have a wealth of knowledge and experience regarding batterer-generated risks and the options and resources available to battered women. Advocates provide the opportunity for battered women to enhance their current safety plans. An advocate begins this process by understanding each battered woman’s perspective on her risks and options. The advocate can then begin to add her information and resources to the woman’s current safety plans. It is this sharing and integration of advocates’ information with each battered woman’s perspective that may enhance safety plans for battered women and their children.”*

Safety Planning: GHLA (8/97) – Jill Davis

When the legislature established DV advocates at DHS, they made it clear that these services must be voluntary. Staff at all levels should understand that survivors can decline DV advocate services, without any adverse consequences.

Co-locating DV advocates at DHS offices will increase the possibility for connection to services for survivors who are not aware of resources, or who have been reluctant to seek out those resources. This is a new population for DV advocates to reach and will require special attention to using and developing engagement skills.

### **Crisis Intervention:**

- Crisis intervention services should be offered to all domestic violence victims receiving services at the DHS office, including those with existing/open cases and those with new cases. At the crisis intervention stage, services will be focused on meeting emergency needs such as immediate safety or medical care for injuries.
- If the co-located DV advocate is not available, local domestic violence programs have 24-hour crisis lines and the National DV Hotline can be reached at 1-800-799-SAFE (7233) or 1-800-787-3224 TTY.

## Ongoing Advocacy Services:

Ongoing domestic violence advocacy services **may** include:

- Adult domestic violence assessment and safety planning;
- Child domestic violence assessment and safety planning;
- One-on-one emotional support;
- Advocacy and system navigation assistance within the DHS system (e.g. information about Child Welfare process, Self-Sufficiency process, meetings and Child Welfare court hearings, etc.);
- Crime victim advocacy and system navigation assistance (e.g. information, advocacy, and accompaniment related to crime reporting, restraining orders, victim impact statements, court orientation, criminal process, etc.);
- Individual support and education regarding the dynamics and impact of domestic violence for survivors & their support networks;
- Referral to and advocacy for other needed services, including emergency shelter, support groups, crisis intervention, legal representation, financial assistance, housing, medical care, etc.
- Ensuring that the system hears the survivor & responds appropriately.

## Case Staffing:

**In general, information should be relayed by the survivor directly to the partner as needed and as appropriate.** Providers should first consider alternatives to requesting releases of information from survivors. In other words, needed information should be obtained from other sources whenever possible. Options that maximize privacy and confidentiality are always preferred.

If a survivor wants the DV advocate to speak on his/her behalf, the survivor must be fully informed of the potential consequences of the release of confidential information by the DV advocate. The written release must detail the specific information that the survivor authorizes the DV advocate to release, to whom it can be released, and be time-limited. The release will comply with VAWA 2005 requirements specific to sharing victim's information. *Please see the confidentiality section in this manual for a more detailed explanation.*

## Consultation:

- Consultation services are available to all Child Welfare and Self-Sufficiency staff and on-site community partners. These services are useful in discussing domestic violence issues that may impact families who are involved in the DHS system. Consultations can occur on an informal basis by speaking with the DV advocate when available in the DHS office or can be more formalized by arranging a meeting with DV advocate.
- DV advocates are available to provide technical assistance and consultation on domestic violence dynamics, interacting effectively with victims, the impact of domestic violence on parenting, battering behaviors, effects of domestic violence on children, and information about community resources such as shelters, restraining orders, legal assistance, financial assistance for domestic violence victims, police response, prosecution, etc.

## **CLARITY OF ROLES AND RESPONSIBILITIES**

**There are important reasons that the DHS worker and DV advocate roles differ.**

Domestic and Sexual Violence advocates play a critical role as non-coercive resources, respecting survivors' autonomy, and validating survivors' expertise regarding their needs and their lives. Maintaining distinct roles is necessary for preserving the empowerment-based, survivor-centered philosophy of advocacy. When advocates shift their focus from supporting a survivors' autonomy to supporting the work of other institutions (like DHS), an important source of support in the community is lost to domestic violence survivors.

At the core of the philosophy that domestic and sexual violence advocates work from is the concept of **Empowerment**.

**Empowerment** is defined as: An active process moving toward information and choices, autonomy, self-sufficiency, responsibility, control of one's life. Advocates' goals are to enable each victim to obtain the information needed:

- To make decisions, and recognize choices
- To recognize strengths, skills and competence
- To be self-sufficient, and to act
- To be open and honest about experiences, needs, and feelings toward victim's self, children and support people

**DV advocates do not work for DHS** but do work in partnership with DHS. DV advocates are there to provide domestic violence services for survivors. It is the role of the DV advocate to stand behind survivors and to hold DHS accountable to appropriately applying DHS policies.

It is important for both DV advocates and DHS staff to clearly outline the separate role DV advocates play. Survivors need to know that while DV advocates have offices at DHS, they are not employees of DHS. DV advocates & DHS workers have distinct tasks and responsibilities.

- DV advocates should not complete TA-DVS interviews or act as eligibility workers
- DV Advocates should not participate in any form of investigation with or on behalf of Child Welfare or monitor a survivor's behavior.
- DV advocate safety plans with non-offending parents do not replace CW safety plans focused on holding perpetrators accountable.
- DV advocates should not act as safety service providers, or supervise visitation.
- DHS staff should not use DV advocates to give survivors information that should come directly from DHS.
- DV advocates can sit in on conversations, record them, and help survivors understand DHS expectations, but they should not speak on behalf of DHS.

The DV advocate can support a survivor in meetings with a DHS worker, at the survivor's request, but should not routinely speak on a survivor's behalf (see, Confidentiality section of this manual.) DV advocates should never make decisions on behalf of survivors.

## Home visits:

If DV advocates accompany DHS workers on home visits, it is especially important to pay attention to the need to clearly define and respect the separate roles and responsibilities of DHS and the co-located DV advocates.

- The survivor should be informed about the separate identities and roles of the partners;
- The survivor should be able to decline advocacy services without any consequences;
- If the survivor wishes to speak to the advocate, he/she should be able to do so in a confidential setting; and the advocate should not be involved in any investigative activities, like room-by-room house inspections.

# **SURVIVOR CONFIDENTIALITY AND CO-LOCATED DOMESTIC VIOLENCE SERVICES**

- CONFIDENTIALITY AND SURVIVOR SAFETY
- CONFIDENTIALITY AND COLLABORATION
- CONFIDENTIALITY AND SURVIVOR SAFETY
- CONFIDENTIALITY REQUIREMENTS FOR NON-PROFIT  
DOMESTIC AND SEXUAL VIOLENCE SERVICE PROVIDERS
- MANDATORY CHILD ABUSE REPORTING
- RELEASES OF INFORMATION AND INFORMED CONSENT
- SUBPOENA RESPONSES
- FORMS

## **CONFIDENTIALITY AND SURVIVOR SAFETY**

Confidentiality is a cornerstone of successful advocacy. Survivors rely on non-profit domestic and sexual violence service providers to guard and protect their private information; it is key to their safety and autonomy. Confidentiality is also key to the ability of providers to build trust within their communities and to provide high-quality advocacy services. Without assurances of confidentiality, survivors may be reluctant to access providers or to share accurate information about their circumstances with domestic and sexual violence advocates. Without that information, advocates are hampered in their ability to help survivors plan for their safety and for their children's safety.

Disclosure of confidential information affects survivors in many potentially harmful ways. For example, disclosure may:

- Put the safety of survivors and their children at risk.
- Cause escalation of violence.
- Be used against survivors in custody and divorce proceedings or manipulated by perpetrators in criminal cases.
- Undermine survivors' trust in advocacy services.
- Affect survivors' employment or education.
- Harm survivors' health.
- Affect survivors' relationships with family, friends, and community.

In Oregon, however, providers cannot guarantee that all of the information they hold about a survivor will remain absolutely confidential. In some instances, certain information may have to be released under a court order. Also, certain advocates may be subject to mandatory abuse reporting laws. **Mandatory child abuse reporting laws, and when and how those laws impact confidentiality, are discussed below.**

At the same time, federal and state funders require providers to maintain strict confidentiality with limited exceptions that are discussed below. In order to protect these funds and as a matter of concern for survivor safety and dignity, all Oregon providers have internal policies that require confidentiality. This section of the manual will help co-located advocates understand how to protect survivor confidentiality and comply with confidentiality policies and laws while working in a collaborative setting.

## **CONFIDENTIALITY AND COLLABORATION**

### **Identifying Common Goals and Understanding Respective**

**Confidentiality Policies:** Domestic and sexual violence service providers and DHS have a common goal of providing access to domestic violence victim services that enhance survivor and child safety. As explained above, confidentiality and safety are integrally related. Domestic violence providers, DHS Child Welfare, and DHS Self-Sufficiency, however, operate under different confidentiality policies, laws, and rules. In order to work collaboratively and effectively, each partner must understand and respect these differences. The collaboration as a whole must remain vigilant about maintaining and respecting the confidentiality of client information.

**Minimize Disclosure:** To further confidentiality and to prevent inadvertent disclosures of information, each partner should avoid requesting information about participants directly from other partners as much as possible. **In general, information should be relayed by the survivor directly to the partner as needed and as appropriate.** Providers should first consider alternatives to requesting releases of information from survivors. In other words, needed information should be obtained from other sources whenever possible. Options that maximize privacy and confidentiality are always preferred.

**Use Releases of Information:** When an exchange of information among partners is necessary, it must be done in a manner that is consistent with each partner's rules regarding disclosure of information. As discussed in detail below, domestic and sexual violence providers are allowed to disclose information only with the **“informed, written, reasonably time-limited consent”** of the survivor. In addition, providers cannot require the release of information as a condition of providing services. Finally, advocates should not ask survivors who are accessing services to sign general or blanket releases of information. Such releases are not “informed.”

**Confidentiality and Role of Advocates:** Partners should be aware that advocates can carry out their responsibilities in the collaboration in many ways that do not require the release of personal information about a survivor. For example, the disclosure of personal information is unnecessary when a co-located advocate working with DHS staff:

- Provides general information about intimate partner violence dynamics.
- Identifies gaps in services.
- Describes and offers available domestic violence services.
- Provides a general perspective on survivor experiences.
- Suggests ways agency partners can increase survivor safety.

## **CONFIDENTIALITY AND SURVIVOR SAFETY**

Most of this section of the manual will discuss confidentiality in the context of domestic and sexual violence providers. Below, however, is an explanation of confidentiality rules that apply to DHS Child Welfare and DHS Self-Sufficiency. Again, all partners should be familiar with and respectful of one another's confidentiality policies and rules.

**DHS Child Welfare:** DHS Child Welfare staff is authorized to share with co-located advocates any child welfare case information that:

- promotes child well-being and safety,
- is in the best interest of the child, and
- is necessary to investigate, prevent or treat child abuse and neglect or to protect children from abuse and neglect.

The disclosure of any information that does not fit these criteria requires a signed form called an **Authorization for Use and Disclosure of Information (DHS 2099)**. Clients have the right to refuse to sign this form. DHS staff may only disclose information with a properly completed DHS 2099 and should not use releases that are general and lack specificity.

DHS Child Welfare staff are not permitted to disclose records and reports compiled under the child abuse reporting law if the sole purpose of the disclosure is to provide services to or protect an adult domestic violence survivor. Any disclosure of the described records must either be linked to protecting the best interests of the affected child and necessary for DHS to administer its child welfare services, OR made for the purpose of investigating, preventing, or treating child abuse or protecting children from child abuse. In other words, DHS cannot disclose any information solely for

the purpose of protecting the adult – disclosure must be tied to the child’s well-being and safety.

**DHS Self-Sufficiency:** By statute, DHS Self-Sufficiency staff must keep survivor information confidential. In order for DHS Self-Sufficiency to share domestic violence information, even with DHS Child Welfare, the survivor must voluntarily agree to sign an authorization for Use and Disclosure of Information (DHS 2099). The DHS 2099 must provide specifics on what information will be shared, to whom, and for how long. DHS staff may only disclose information with a property completed DHS 2099 and should not use releases that are general and lack specificity.

The client’s refusal to sign a release of information will not impact receiving services from DHS. *Please refer to the “DHS Confidentiality & Sharing of Information in Domestic Violence and DHS Collaboration” 1 pager in notebook after this section.*

The DHS Family Services Manual includes provisions covering confidentiality and domestic violence.

**DHS Self-Sufficiency Safety Packet:** Advocates should be aware that DHS Self-Sufficiency has a packet of information and forms known as a “Safety Packet.” Typically, applicants for public benefits are required to assign their child support rights to the State of Oregon. However, if survivors have safety concerns related to the state establishing paternity, pursuing child support or enforcing child support, they can ask that the state protect their residential address and personal information or that the state not pursue child support at all.

The Safety Packet is available at:

<https://apps.state.or.us/Forms/Served/de8660.pdf>.

Additional information about safety concerns and child support is at:

[http://www.oregonchildsupport.gov/resources/safety\\_2.shtml](http://www.oregonchildsupport.gov/resources/safety_2.shtml)

## **CONFIDENTIALITY REQUIREMENTS FOR NON-PROFIT DOMESTIC AND SEXUAL VIOLENCE SERVICE PROVIDERS**

**Violence Against Women Act (VAWA) 2005:** As noted, providers maintain confidentiality as a matter of respect for the safety and dignity of survivors. In addition, the state and federal funds that support the work of non-profit domestic and sexual violence providers in Oregon require strict confidentiality as a condition of continued funding. The Violence Against Women Act 2005 (VAWA) is a federal law through which most, if not all, Oregon providers receive funds. VAWA spells out with great specificity that the maintenance of confidentiality is a condition of grant funding. Other funds, both state and federal, that are distributed to providers by the Oregon Department of Justice and the Oregon Department of Human Services have adopted the VAWA rules regarding confidentiality by placing VAWA language in their contracts. As a result, advocates should be familiar with the VAWA rules.

**Basic Rule – No Release of Information Without Informed, Reasonably Time-Limited Consent:** Recipients of VAWA funds are required to protect the confidentiality and privacy of those receiving services. The crux of the law is that: **“grantees may not disclose personally identifying information or individual information or reveal individual client information without the informed, written reasonably time-limited consent of the person.”**

The existence of co-located services does not change a provider’s responsibilities under VAWA. An advocate may not speak to DHS staff about a survivor’s situation or circumstances without a written release of information that complies with VAWA.

**“Personally identifying information ”** is defined in VAWA as information that is “likely to disclose the location of a victim . . . including a victim’s first and last name, a home or other physical address, contact information (including a postal address, e-mail address, telephone or fax number), social security number, or any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of the above information, would serve to identify any individual.” An advocate

must look at the facts of each individual case and the totality of the circumstances to determine whether the information to be disclosed will reveal the survivor's personally identifying information.

**Exception to the Rule:** The single exception to the general rule that **information can be released only with an informed, written, reasonable time-limited consent** is if the release of information is **compelled by statutory or court mandate**. In general, this language refers to the release of information that is required by a specific law, such as a mandatory child abuse reporting law (see discussion below), or by a court order. Even when release is permitted for these reasons, VAWA still requires that providers **make reasonable attempts to notify the survivor and take steps necessary to protect the privacy and safety of the person affected by the release of information**.

## **MANDATORY CHILD ABUSE REPORTING**

**Oregon's Law:** Mandatory child abuse reporting refers to an Oregon law that requires certain "public or private officials" to report child abuse. The law is set out at ORS 419B.005 to 419B.050. ORS 419B.005 defines the individuals who are considered public or private officials and also defines "abuse." Employees of the Department of Human Services are covered by the definition of public or private officials; therefore, they are mandatory child abuse reporters. ORS 419B.005(4)(e). The designated individuals must report abuse if they come in contact with either: (1) a child they have reasonable cause to believe has been abused or (2) a person who has abused a child. This obligation is in effect 24 hours/day and 7 days/week; it is not limited to the reporter's working hours or contact made in an official capacity.

### **Application of Law to Domestic and Sexual Violence Advocates:**

Domestic and sexual violence advocates **are not included** in the definition of "public or private officials" under Oregon's law. Therefore, domestic violence advocates are not by definition mandatory child abuse reporters. However, certain individuals who work for a domestic and sexual violence provider may be mandatory reporters of child abuse because of their other professional employment (*e.g.*, a school or nursing home employee) or licensing or occupation (*e.g.*, a licensed clinical social worker or health care

provider). Licensed child care agencies and registered or certified childcare providers are also mandatory reporters of child abuse in Oregon, so domestic and sexual violence service providers should determine whether they fall within this definition.

**Effect of the Law on Providers:** Everyone who works for a domestic and sexual violence provider should also know who else, if anyone, among the staff is mandated to report child abuse. This is critical for two reasons. First, survivors have a right to know whether the person they are speaking with is mandated to report. This information should be disclosed **before** the survivor makes any disclosures to provider staff. Second, advocates need to know who else is mandated to report so they do not, without survivor consent, disclose information that will trigger a reporting obligation.

**VAWA 2005 and Mandatory Child Abuse Reporting:** Remember — if an advocate is **not** a mandatory child abuse reporter under Oregon law, VAWA 2005 prohibits a report of child abuse unless the survivor signs a release of information based on informed consent. Oregon law, not program policy or practice, determines whether or not a domestic or sexual violence advocate is a mandatory child abuse reporter

Where concerns about child abuse exist, and when otherwise safe and appropriate, an advocate may consider working with a survivor to determine whether he or is comfortable making a voluntary report of child abuse.

VAWA grant conditions, however, allow a mandatory child abuse reporter, as defined by Oregon law, who works for a domestic or violence provider, to carry out his or her obligations under Oregon law. In other words, advocates who are mandatory child abuse reporters under Oregon law may make a report of child abuse without a release of information. To comply with VAWA, however, advocates compelled by law to report should not release more information than is required under the mandatory child abuse reporting law. Also, as discussed above, VAWA requires that providers make reasonable attempts to notify the survivor and take steps necessary to protect the privacy and safety of the person affected by the release of information. To protect the safety of a survivor affected by a release of information, advocates can engage in or provide referrals for safety planning in light of the disclosure.

For more information about mandatory child abuse reporting, the DHS publication called “What you can do about child abuse” is helpful. It is available online at <http://dhsforms.hr.state.or.us/Forms/Served/DE9061.pdf>.

**Note:** advocates are similarly restricted from reporting elder abuse or abuse of a person with a disability if they are not a mandated reporter under Oregon law and the survivor does not consent to the release.

## **RELEASES OF INFORMATION AND INFORMED CONSENT**

Before a survivor shares personal information with a provider, the survivor should be advised about the following:

- who has access to the survivor’s information once it is in the provider’s possession and
- under what circumstances, if any, the survivor’s information will be shared outside the provider without the survivor’s written and informed consent (for example, before they disclose information, survivors should be advised as to whether any provider staff is a mandatory reporter of child abuse and the provider’s protocol for responding to a subpoena for records or oral testimony).

An **informed, written reasonably time-limited consent of the person** release is required any time a participant’s personal information will be shared outside of the program.

**Informed Consent:** Informed consent refers to a survivor’s knowing (carefully considered) and informed decision to permit the disclosure of confidential information. Advocates should explain and ensure that survivors understand that the decision to disclose is theirs alone, the alternatives to disclosure (i.e., is it possible for the survivor to get the benefits or assistance sought without signing a release?), and the risks and benefits of disclosure. Before signing a release of information, the advocate and the survivor should have a clear understanding of exactly what information will be released and for what purpose, and how, when and with whom it will be shared. The survivor should also be told how to revoke the release.

**Written:** A release must be in writing. Each provider should have and consistently use a release of information form that complies with VAWA. Forms should contain:

- Description of the information to be released (a survivor may choose to allow some, but not all, of her or his information to be released).
- The name of the agency designated to receive the information.
- The purpose of the release.
- The duration of the release.
- The date the release is signed.
- An explanation that the release of information can be revoked by the survivor.

**A separate form should be used for each agency or individual to whom a survivor is authorizing a release of information.** In other words a “blanket” release that authorizes the release of information to several different agencies or individuals at once is inappropriate. Such releases are not sufficiently precise and are inconsistent with VAWA requirements.

Oral releases are inconsistent with VAWA. If a release is given orally in the **rare** emergency situation, the survivor’s identity must be verified and she must sign the written release as soon as possible.

**Reasonably time-limited:** Whether a release is “reasonably time limited” is determined in relation to the survivor’s individual circumstances and needs. The length of time that a release is effective should be the *minimum* length necessary under the circumstances and should be tied to the service the survivor is requesting. Fifteen to thirty days is recommended and best practice. Advocates should balance the inconvenience of signing a new release with the benefits of protecting survivor confidentiality. If releases are not reasonably time-limited, providers may release information when the survivor’s situation has changed and the release may no longer be informed, safe, or appropriate. Advocates should err on the side of getting new releases that are up-to-date in terms of what information can be released and to whom.

Advocates may share only the specific information authorized in the release form. Information revealed by the survivor to the domestic violence advocate after the release was signed or that was not authorized in the original release may not be disclosed without completion of a new release.

While this places an additional burden on advocates and providers, these steps both protect a survivor's personal information and help ensure the survivor is making as informed a decision as possible regarding the potential consequences of disclosing the additional information.

## **SUBPOENA RESPONSES**

**Subpoena Defined:** A subpoena is a court order that requires a person to appear in court or at a deposition and provide testimony and/or records or documents. The service of a subpoena on a provider or an advocate is a very serious matter that may lead to the disclosure of participant information. Subpoenas should not be ignored and should be dealt with in a timely manner. A court may find a person who fails to obey a subpoena in contempt of court.

**Subpoena Response Policies:** In general, providers should have a written subpoena response policy in place, and all advocates should be trained on the content of the policy. Typically, policy development is the responsibility of a provider's Board and Executive Director. More information about crafting such policies and the nuts and bolts of dealing with a subpoena can be found in the OCADSV Legal Manual.

In general, providers should consider first whether the survivor objects to the disclosure. If the survivor does not object, the records may be released after obtaining a VAWA-compliant release of information form. If the participant objects or cannot be found, providers should consider making formal and informal efforts to have the subpoena withdrawn or "quashed" (dismissed by the court) or to request that the court make a "protective order" to identify and limit the information that is disclosed, taking the survivor's safety into consideration. Note that when a subpoena is received, providers are strongly advised to consult with an attorney as quickly as possible.

**Subpoenas and Co-located Services:** The disclosure by a program of a survivor's information under a subpoena can seriously undermine the survivor's trust and can negatively impact a program's advocacy efforts. Regular conversations with partners about these impacts may be helpful in minimizing the issuance of subpoenas regarding survivors served by the collaboration. In addition, partners should know that domestic violence

program records are typically quite minimal and may be of little tangible use in a court proceeding.

**Practical Tips:** An advocate who is served with a subpoena should consider the following practical tips:

- Never disclose information to the person delivering the subpoena.
- Note how the subpoena was served, by whom, and to whom it is addressed.
- Note whether it is accompanied by a check for an appearance fee and mileage.
- Inform the executive director immediately.

## **FORMS**

- DHS Request for Restriction and Use of Disclosures - Form 2099
- Non-Profit Domestic and Sexual Violence Service Provider's Release of Information form (insert your program's form at the end of this section of the manual)

# **CULTURAL CONSIDERATIONS AND UNDERSERVED COMMUNITIES**

- OPPRESSION'S ROLE IN DOMESTIC VIOLENCE
- CULTURE'S ROLE IN DOMESTIC VIOLENCE
- INDIAN CHILD WELFARE ACT (ICWA) COMPLIANCE
- IMMIGRANTS AND NON-CITIZEN SURVIVORS

## **OPPRESSION'S ROLE IN DOMESTIC VIOLENCE**

DV Service Providers and DHS must understand the link between oppression and violence. Although disparities, such as poverty, lack of education and/or housing, racism and sexism are not the cause of domestic violence, they do contribute to the level of personal agency and social support someone has to break free from an unsafe relationship. People are healthier when they feel safe, supported and connected to others. Domestic violence and the many control tactics survivors experience are rooted in oppression. Providers can be most effective in supporting survivors by helping to address the historical underpinnings that can bring a lifetime of abuse - personal, community and institutional.

Offering culturally specific advocacy and resources can help facilitate a supportive healing process.

## **CULTURE'S ROLE IN DOMESTIC VIOLENCE**

It is essential that DV service providers and DHS consider culture as an important factor when addressing domestic violence. DV is present in all ages, cultures, social or economic classes, and communities of faith.

Differences in culture can impact:

- How people perceive and react to DV.
- How DV victims or perpetrators seek services related to the DV.
- How the DV perpetrator carries out the abuse.

DV perpetrators often misuse cultural norms to maintain their power and control over their victim. They also may justify their abuse in cultural or religious terms if they think doing so will be effective.

However, in the same way all cultures hold values that support the protection and nurturance of children, all cultures also hold values that

support peaceful, mutually respectful intimate relationships. It is critical that as providers you address the unique needs of each family.

## **INDIAN CHILD WELFARE ACT (ICWA)** **COMPLIANCE**

The National Indian Child Welfare Association (NICWA) provides technical assistance and training to help child welfare agencies comply with the Indian Child Welfare Act of 1978 (ICWA).

Go to: [www.nicwa.org](http://www.nicwa.org) for more information.

### **What is the ICWA?**

ICWA is a federal law that seeks to keep American Indian children with American Indian families. Congress passed ICWA in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress under ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" (25 U.S.C. § 1902). ICWA sets federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe.

### **Common Questions:**

#### ***How does ICWA protect Native American/Alaska native children and their families?***

When ICWA applies to a child's case, the child's tribe and family will have an opportunity to be involved in decisions affecting services for the Indian child. A tribe or a parent can also petition to transfer jurisdiction of the case to their own tribal court. ICWA sets out federal requirements regarding removal and placement of Indian children in foster or adoptive homes and allows the child's tribe to intervene in the case.

### ***Who is covered by ICWA?***

Indian children involved in state child custody proceedings are covered by ICWA. A person may define his or her identity as Indian but in order for ICWA to apply, the involved child must be an Indian child as defined by the law. ICWA defines an "Indian child" as "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe" (25 U.S.C. § 1903). Under federal law, individual tribes have the right to determine eligibility, membership, or both. However, in order for ICWA to apply, the child must be a member of or eligible for membership in a federally recognized tribe. <http://tribaldirectory.com/>

ICWA does not apply to divorce proceedings, intra-family disputes, juvenile delinquency proceedings, or cases under tribal court jurisdiction.

Please reference the National Indian Child Welfare Association for more information on the following commonly asked questions:

- ICWA Eligibility:
  - How do I know if a child is eligible for membership in a tribe?
  - What if a child is Indian but is not a member of a federally recognized tribe?
  
- ICWA Compliance:
  - What considerations should be made in an ICWA case?
  - Who can a survivor contact if their rights under ICWA are being ignored?

### **ICAWA in Oregon:**

- Oregon's DHS ICAWA Policy information:  
<http://www.dhs.state.or.us/policy/childwelfare/icwa/icwa.htm>

- Native American Youth & Family Center (NAYA) has a foster care support program: <http://www.nayapdx.org/services/family-services/foster-care-support.php>

## **IMMIGRANTS AND NON-CITIZEN SURVIVORS**

“Immigration laws, regulations and practices are complex, and change frequently. As a result, it is vital that advocates ensure that their working knowledge of immigration law is current and accurate. In worst case scenarios, missteps in filing or inaccurate legal advice can lead to dire consequences for non-citizen survivors, such as arrest and incarceration, the break-up of families, and permanent removal from the United States. If at all possible, advocates should develop a working relationship with a local immigration expert who can answer questions about how to help non-citizen survivors, and who will advise non-citizen survivors on immigration matters.”<sup>1</sup>

Please reference the OCADSV Legal Manual for further explanations. Or for more and frequently updated information concerning immigrant advocacy, please see:

[www.nationalimmigrationproject.org/legalresources.htm#vcpv](http://www.nationalimmigrationproject.org/legalresources.htm#vcpv)

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<sup>1</sup> Frequently Asked Questions – A Manual for Program Advocates; Oregon Coalition Against Domestic & Sexual Violence (Pg. 123)

# **PRACTICES AND PROCEDURES**

- COLLABORATION
- LEADERSHIP TEAM
- ACCOUNTABILITY STRUCTURE
- COMMUNICATION
- LOGISTICAL ISSUES
- REFERRAL PROCESS
- CLIENT GRIEVANCE PROCEDURES

## **COLLABORATION**

Collaboration requires a group of people with diverse skills, experience and knowledge who are committed to working towards a shared vision.

Collaboration builds on the individual strengths and institutional resources of the participants and results in outcomes that cannot be achieved alone. In recognition of this, partner agencies acknowledge that each agency has different roles and guidelines in responding to child abuse/neglect and domestic violence. All parties agree to respect these roles and the specific confidentiality guidelines, policies and procedures of the individual agencies, and commit to fostering an environment of cooperation, respect and trust.

Protecting the relationship between advocates and the victims they work with is essential if we want to increase safety for adults and children impacted by batterers. Domestic violence advocacy will be more effective in improving safety for adult and child survivors if confidentiality is respected. Domestic violence advocates should not be used by DHS staff as investigative tools, or even routine sources of information.

## **LEADERSHIP TEAM**



Supervisors from the domestic violence agency and Department of Human Services meet regularly to discuss and solve any problems that may arise in this collaborative relationship. On an as-needed basis, supervisors communicate directly and respectfully about any challenges or concerns related to personnel issues as soon as these issues arise. (Contact info at front)



INSERT YOUR LOCAL MOU HERE

## **ACCOUNTABILITY STRUCTURE**

Co-located DV advocates are employees of their respective agencies, receive direct supervision from those agencies, and are governed by the personnel policies and other policies/procedures of their employing agencies. Direct supervision by the Domestic Violence Agency includes:

- Attendance at required staff meetings and one-on-one supervision at the domestic violence agency;
- Formal approval of timekeeping and attendance issues such as vacation time and sick time;
- Case de-briefing and problem-solving
- Management and support for secondary trauma;
- Regular performance reviews, and addressing disciplinary or personnel issues;
- Participation in agency-required training or other special events.

Co-located DV advocates are located at DHS and have day-to-day responsibility and accountability to DHS colleagues, including maintaining a strong collaborative relationship with DHS workers, DHS Supervisors or Line Managers.

Domestic Violence Advocate's accountability to DHS includes:

- Communication regarding referred cases or prioritized cases in a timely manner;
- Coordinating with DHS on schedules such as when/where staff are working off-site;
- Calling in when sick, and scheduling vacations and time off with consideration to coverage;
- DV Advocates must also abide by DHS policies and procedures regarding use of DHS resources and ethical conduct when interacting with DHS clients;
- The DHS Line Manager or Supervisor will designate a liaison for the DV Advocate to consult for problem solving, questions about DHS's

responsibilities, policies or procedures, or other questions. Their contact information is at the front of this document under DHS contacts.

## **COMMUNICATION**

There may be occasions when DHS Workers and Domestic Violence Advocates have issues regarding jointly shared cases that they cannot solve themselves. Both are encouraged to consult with their respective supervisors as they attempt to resolve issues with one another. The partner agencies commit to using the processes outlined below or their own conflict resolution process, for resolving the conflicts or differences that may arise.

**If the partner agencies have developed their own conflict resolution process, please insert after this page.**



**If your program does not already have a protocol for resolving conflict, here is one example. The Leadership team for your project should work on a protocol if one is not in place.**

Problem solving process for Child Welfare staff:

- Talk with Domestic Violence Advocate. If unable to resolve:
- Consult with designated DHS liaison to DV project. If still unable to resolve:
- Consult with own Child Welfare Supervisor. If still unable to resolve:

Problem solving process for Self Sufficiency staff:

- Talk with Domestic Violence Advocate. If unable to resolve:
- Consult with designated DHS liaison to DV project. If still unable to resolve:
- Consult with own Line Manager. If still unable to resolve:
- Consult with Program Manager.

Problem solving process for Domestic Violence Advocate:

- Talk with DHS staff. If unable to resolve:
- Consult with designated DHS liaison. If still unable to resolve:
- Consult with Domestic Violence Program Supervisor. If still unable to resolve:
- Consult with DHS Line Manager or Supervisor.

For co-located DV Advocates funded by DHS, Stephanie Hoskins is available for consultation and assistance with problem solving.

## **LOGISTICAL ISSUES**

**Physical Space:** The Domestic Violence Advocates are co-located at the DHS Office and their home agency. DHS will make every effort to provide a private meeting space available to meet with victims where confidentiality can be preserved.

**Multiple community-based service providers:** If there are multiple providers it can be confusing to DHS staff and clients. Make plans for distinguishing one provider from another and clarifying their areas of expertise.

This is especially important if a single agency offers more than one service. That agency should also be sure they have confidentiality protocols in place to protect information from being released between their programs when it should remain confidential.

**Access to DHS Resources:** DV Advocates are provided with individual phone lines, extensions, DHS email addresses and laptops.

DV Advocates have access to the following DHS materials:

- Access to Outlook
- Access to the DHS calendar

DV Advocates will have a DHS email account. Please keep the following in mind:

- This account is to be used solely for the purpose of communicating with DHS.

- DHS newsletters and trainings will come through this DHS email.
- All DHS email is public information.
- Do not put any confidential client information into email.

**Hiring and Supervision:** In order to be eligible for employment, the advocates are required to go through the hiring policies and procedures of their home agencies. Co-located Domestic Violence Advocates are employees of their home agency and must abide by the rules and regulations set forth by that agency. The DV Advocate continues to receive supervision by their home agency and should attend staff meetings at their home agency.

**Holidays:** When DHS has a holiday that is not observed by the home agency, the DV Advocate will report to their home agency for a normal workday instead of the DHS office.

**Furlough Days:** When DHS has a furlough day, the DHS offices will be closed and not accessible. The DV advocate should arrange with their home agency where to proceed for a normal workday instead of the DHS office.

**Leave (Sick and Vacation):** If an employee is sick or has another emergency which prohibits them from attending work they need to notify the DHS office. In some cases, notifying the DHS receptionist will suffice. Please discuss what the protocol for the local office is. In addition, the DV Advocate must follow their home agency's protocols regarding sick leave as well as taking vacation leave. If a DV Advocate will be gone for vacation, they need to notify the DHS staff so that they can plan accordingly.

## **REFERRAL PROCESS**

Once a DV Advocate receives referrals, the advocate is responsible for connecting with those clients and providing services to the clients. In the event that the advocate is unable to contact the client, every effort should be made to provide the client with referral information to the local domestic violence program. Decisions regarding priority of referrals are made on a case-by-case basis, with the safety of the client as well as the DV advocate as a priority. DV Advocates should work closely with DHS staff to ensure an adequate flow of referrals. If referrals are such that an Advocate's caseload is too low, he/she should discuss this issue with their home agency supervisor who can then discuss this issue with the supervisors at DHS.

**EACH LOCATION SHOULD CREATE THEIR OWN REFERRAL PROCESS WHICH BEST REFLECTS LOCAL BUSINESS PRACTICES.**

**When a referral process is developed, please insert following this page.**



## **Referrals:**

**In Child Welfare**, domestic violence survivors may be identified and referred by the Supervisor during the case assignment process, or may be identified and referred by caseworkers from their existing caseloads. **In Self-Sufficiency**, victims generally self-disclose on the application or are identified during screening or at the eligibility intake. Victims may also be identified and referred during JOBS program interactions.

- Referrals can come from a variety of sources in Child Welfare including the protective services supervisors, protective services workers, permanency supervisors, permanency workers, or Family Meeting facilitators. In Self-Sufficiency the victim could be referred by a screener, eligibility worker, case manager or other branch staff who have contact with clients. Contractors may also refer clients to the co-located advocate.
- Referrals can occur at any time the client is involved with DHS.
- Ideally, DHS workers should first discuss the basic case situation (while maintaining confidentiality) with the domestic violence advocate in order to make sure the case is appropriate for services.

## **CLIENT GRIEVANCE PROCEDURES**

If a client of DHS has a complaint regarding the services they have received, that their privacy rights have not been protected or they feel that they have been discriminated against; DHS form #0171 contains the procedures for filing a grievance.

Each Domestic Violence agency has their own client grievance procedure that is provided to the client upon start of services.

**Please insert your agency's grievance procedure and any related forms following this page.**



# AGENCY OVERVIEWS

- DOMESTIC VIOLENCE AND SEXUAL ASSAULT AGENCIES
- CHILD WELFARE
- SELF-SUFFICIENCY

## **DOMESTIC VIOLENCE AND SEXUAL ASSAULT AGENCIES**

Oregon's domestic violence programs look different throughout the state. They are non-profit 501(c)(3) organizations that have a primary focus on providing services to survivors of domestic violence, sexual assault and stalking. Many receive similar funding streams, but are also dependent upon local donations. The infrastructure and size of the staff varies depending upon what area of the state the program is located.

Domestic violence programs typically offer:

- Advocacy (medical, legal, academic)
- Shelter (Emergency, Transitional)
- Safety planning
- 911 cell phones
- Support groups
- Help with basic needs
- Crisis lines
- Education/support for friends & family

To find out more about non-profit Domestic and Sexual Violence programs throughout Oregon, go to [www.ocadsv.org](http://www.ocadsv.org).

## **CHILD WELFARE**

Child Protective Services (CPS) is the part of DHS that responds to child abuse reports. CPS-trained caseworkers listen to reports of abuse, assess the situations and prepare service plans to assist children and families. CPS and law enforcement agencies have a shared legal responsibility for taking child abuse reports and responding to them. The Oregon Child Abuse reporting law, ORS 419B.005 to 419B.05D, is designed to provide early identification

and protection of children who have been abused. CPS or law enforcement intervenes when a caregiver abuses or neglects a child.

- Screening
- Safety Assessment
- Safety Plans
- Risk Assessment

CPS caseworkers are trained on the following:

- Symptoms of abuse
- How to screen incoming reports of abuse
- How to assess the future safety of a child
- How to conduct an assessment of the family
- How to interview victims, witnesses and alleged abusers
- When to ask law enforcement for assistance
- How to decide if abuse actually occurred
- How to decide on appropriate services and write a service plan
- When to close a case

## **SELF-SUFFICIENCY**

Self-Sufficiency Programs (SSP) is the part of DHS that helps low income people and families achieve self-sufficiency. Programs available through SSP include:

- **Pre-TANF Program:** The purpose of Pre-TANF is to meet immediate and basic needs and begin the assessment process while determining eligibility for TANF.
- **JOBS Program:** Provides employment preparation, training and placement services to people receiving public assistance, to help them find and keep work. Services include basic education, "Life Skills" classes and job-search assistance.
- **Cash Assistance for Needy Families:** Provides cash benefits for one-and-two parents families who meet certain eligibility requirements.

- **Employment Related Daycare:** Assists low-income employed families in paying child-care costs, so they can remain on the job. Families pay a portion of their day care bills, based on their income.
- **Supplemental Nutrition Assistance Program:** Provided to families on public assistance, employed low-income families and individuals, the elderly, and people with disabilities, to help them purchase food. The cost of benefits is paid by the federal government; administrative costs are shared by the state and federal governments.
- **Temporary Assistance for Domestic Violence Survivors (TA-DVS):** This is a program which provides temporary financial assistance and support services during domestic violence crisis or emergency situations. Most often when the domestic violence survivor and children are fleeing domestic violence or at risk of returning to the abuser.
- **Medical Assistance Programs:** These programs, including the Oregon Health Plan, provide health coverage to low-income Oregonians. SSP, APD and OHA handle eligibility for the programs; OHA is responsible for administering the programs, determining benefit packages and making payments to medical providers.

# DEFINITIONS

- DEFINITIONS OF DOMESTIC VIOLENCE
  - DOMESTIC VIOLENCE PROGRAMS
  - SELF-SUFFICIENCY
  - CHILD WELFARE

## **DEFINITIONS OF DOMESTIC VIOLENCE**

- *Domestic Violence Programs* define domestic violence as a pattern of coercive tactics that can include physical, psychological, sexual, economic, and emotional abuse, perpetrated by one person against an intimate partner, with the goal of establishing and maintaining power and control. Domestic violence occurs in all kinds of intimate relationships, including married couples, people who are dating, couples who live together, people with children in common, same-sex partners, people who were formerly in a relationship with the person abusing them, and teen dating relationships. [www.ocadsv.org](http://www.ocadsv.org)
- *Self-Sufficiency* uses the following statutory definition:
  - “Domestic Violence” means the occurrence of one or more of the following acts between family members, intimate partners, or household members:
    - Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.
    - Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.
    - Committing sexual abuse in any degree as defined in ORS [163.415](#), [163.425](#) and [163.427](#).
    - Using coercive or controlling behavior.
- *Child Welfare* defines domestic violence in ‘Child Welfare Practices for Cases with Domestic Violence’<sup>2</sup> as a pattern of assaultive and/or coercive behaviors including physical, sexual and emotional abuses, as well as economic coercion that adults use against their intimate partners to gain power and control in that relationship.

Domestic violence is more than the physical assault. The controlling tactics batterers use are reinforced by societal and cultural stereotypes and institutions that overall give more status and power to men. Cultural norms stress the importance of women staying in the relationship regardless of the consequences.

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<sup>2</sup> <https://apps.state.or.us/Forms/Served/ce9200.pdf>

Domestic violence is present in all cultures, socio-economic classes, communities of faith, etc. It is important to understand, however, how beliefs affect the perception and reaction to domestic violence and seeking of services.

By law, co-located DV advocacy services are voluntary for domestic violence victims. Clients should not be penalized in any way if they choose not to engage with the DV advocate.

# APPENDIX

- DHS WEB BASED RESOURCES AND TOOLS
- DHS DOMESTIC VIOLENCE RESOURCES
- OTHER USEFUL WEBSITES
- RECOMMENDED RESOURCES
- ATTACHEMENTS

## **DHS WEB BASED RESOURCES AND TOOLS**

For all current forms and publications, go to the DHS form server:

<https://apps.state.or.us/cf1/FORMS/> and use the DHS form number to find the most updated form.

1. DHS –Release of Information: Form #2099
2. DHS Child Welfare for Cases with Domestic Violence: Form #9200
3. Safety Strategies (Child Welfare)
4. DHS Client Complaint or Report of Discrimination: Form #0170
5. DHS Safety Assessment: Form #7802

## **DHS DOMESTIC VIOLENCE RESOURCES:**

1. DHS Domestic Violence Webpage:  
<http://www.dhs.state.or.us/caf/dv/index.htm>
2. DHS Tools Page: <http://www.dhs.state.or.us/caf/dv/tools.htm#presentations>

*This page has links to tools that have been designed for DHS staff to use when dealing with domestic violence situations. They include resources for Self Sufficiency and Child Welfare workers, as well as information on child support processes and links to outside resources, like the address confidentiality programs. At the bottom of the page there are also some training resources.*

3. Quality Assurance Standards for Domestic Violence Prevention and Intervention within Oregon Department of Human Services and Oregon Health Authority: <http://cms.oregon.gov/dhs/abuse/domestic/dvcouncil/dv-standards.pdf>
4. DHS DV Point People: <http://cms.oregon.gov/DHS/abuse/domestic/docs/contacts.pdf>

## **OTHER USEFUL WEBSITES**

1. OCADSV: [www.ocadsv.org](http://www.ocadsv.org)
2. Local Program's Website: \_\_\_\_\_
3. Legal Aid Law Help: [www.oregonlawhelp.org](http://www.oregonlawhelp.org)
4. Oregon Legal Aid: <http://www.lawhelp.org/program/694/index.cfm>
5. Oregon Law Center: <http://www.oregonlawcenter.org>

## **RECOMMENDED RESOURCES**

1. Child Welfare Practices for Cases with Domestic Violence
2. OCADSV Legal Manual ([www.ocadsv.org](http://www.ocadsv.org) go to the "Resource Tab" and select "A Manual for Oregon's Domestic and Sexual Violence Advocates.")
3. Greenbook Tools and Resources: <http://www.thegreenbook.info/read.htm>
4. David Mandel's online training: <http://cbcta.fmhi.usf.edu/flcwp/confvids/palatka08/fs.html>
5. Battered Women's Protective Strategies: [http://new.vawnet.org/Assoc\\_Files\\_VAWnet/AR\\_BWProtStrat.pdf](http://new.vawnet.org/Assoc_Files_VAWnet/AR_BWProtStrat.pdf)
6. Supporting Battered Mothers Protects Children: Reducing the Effects of Domestic Violence on Children: [http://www.vawnet.org/summary.php?doc\\_id=2693&find\\_type=web\\_desc\\_GC](http://www.vawnet.org/summary.php?doc_id=2693&find_type=web_desc_GC)
7. Helping Children Thrive: Supporting Woman Abuse Survivors as Mothers: [http://www.lfcc.on.ca/HCT\\_SWASM.pdf](http://www.lfcc.on.ca/HCT_SWASM.pdf)
8. National Network to End Domestic Violence Technology & Confidentiality Took Kit: <http://nnev.org/tools/faq/faq-flc/flc-vawa2005>

## **ATTACHMENTS**

1. Authorization for Use and Disclosure of Information (DH 2099)
2. NNEDV VAWA 1 pager
3. NNEDV Templates
4. Confidentiality and Sharing of Information in the Domestic Violence and DHS Collaboration
5. Domestic Violence and the Mandatory Reporting Act for SSP Workers
6. Frequently Asked Questions Related to Children Witnessing Domestic Violence
7. TA-DVS 1 pager
8. Sensitive Practice At-a-Glance
9. DHS Administrative Hearings
10. Filing a Complaint (Grievance) with DHS
11. Domestic Violence 101 Outline

***This form is available in alternative formats including Braille, large print, computer disk and oral presentation.***

Legal last name of client/applicant:	First:	MI:	Date of birth:
Other names used by client/applicant:			Case ID number:

By signing this form, I authorize the following record holder to disclose the following specific confidential information about me:

	Release from one record holder: <i>(individual, school, employer, agency, medical or other provider)</i>	Specific information to be disclosed:	Mutual exchange: Yes/No
Section A			
<p>If the information contains any of the types of records or information listed below, additional laws relating to use and disclosure may apply. I understand that this information will not be disclosed unless I place my initials in the space next to the information:</p> <p><b>HIV/AIDS:</b> _____ <b>Mental health:</b> _____ <b>Genetic testing:</b> _____</p> <p><b>Alcohol/drug diagnoses, treatment, referral:</b> _____</p>			

	Release to: <i>(address required if mailed)</i> If releasing to a team, list members.	Purpose:	Expiration date or event*:
Section B			
<p><b>*This authorization is valid for one year from the date of signing unless otherwise specified.</b></p> <p>I can cancel this authorization at any time. The cancellation will not affect any information that was already disclosed. I understand that state and federal law protects information about my case. I understand what this agreement means and I approve of the disclosures listed. I am signing this authorization of my own free will.</p> <p>I understand that the information used and disclosed as stated in this authorization may be subject to re-disclosure and no longer protected under federal or state law. I also understand that federal or state law prohibits re-disclosure of HIV/AIDS, mental health and drug/alcohol diagnosis, treatment, vocational rehabilitation records or referral information without specific authorization.</p>			

Section C	Full legal signature of individual or authorized personal representative:		Relationship to client:	Date:	
	Name of staff person <i>(print)</i> :		Initiating agency name/location:	Date:	
	Full legal signature of agency staff person making copies:		This is a true copy of the original authorization document.		
	Print staff person name:				

## Required information for the client

**To provide or pay for health services:** If the Department of Human Services (DHS) or Oregon Health Authority (OHA) is acting as a **provider** of your health care services or paying for those services under the Oregon Health Plan or Medicaid Program, you may choose not to sign this form. That choice **will not** adversely affect your ability to receive health services, *unless* the health care services are solely for the purpose of providing health information to someone else and the authorization is necessary to make that disclosure. (*Examples of this would be assessments, tests or evaluations.*) Your choice not to sign **may affect** payment for your services if this authorization is necessary for reimbursement by private insurers or other non-governmental agencies.

This authorization for use and disclosure of information **may also be necessary** under the following situations:

- To determine if you are eligible to enroll in some medical programs that pay for your health care
- To determine if you qualify for another DHS or OHA program or service not acting as a health care provider

**This is a voluntary form.** DHS or OHA cannot condition the provision of treatment, payment or enrollment in publicly funded health care programs on signing this authorization, except as described above. However, you should be given accurate information on how refusal to authorize the release of information may adversely affect eligibility determination or coordination of services. If you decide not to sign, you may be referred to a single service that may be able to help you and your family without an exchange of information.

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## Using this form

1. **Terms used: Mutual exchange:** A “yes” allows information to go back and forth between the record holder and the people or programs listed on the authorization. **Team:** A number of individuals or agencies working together regularly. The members of the team must be identified on this form.
2. **Assistance:** Whenever possible, a DHS or OHA staff person should fill out this form with you. **Be sure you understand the form before signing.** Feel free to ask questions about the form and what it allows. You may substitute a signature with making a mark or by asking an **authorized** person to sign on your behalf.
3. **Guardianship/custody:** If the person signing this form is a personal representative, such as a guardian, a copy of the legal documents that verify the representative’s authority to sign the authorization must be attached to this form. Similarly, if an agency has custody and their representative signs, their custody authority must be attached to this form.
4. **Cancel:** If you later want to cancel this authorization, contact your DHS or OHA staff person. You can remove a team member from the form. You will be asked to put the cancellation request in writing. Exception: Federal regulations do not require that the cancellation be in writing for the Drug and Alcohol Programs. No more information can be disclosed or requested after authorization is cancelled. DHS or OHA can continue to use information obtained prior to cancellation.
5. **Minors:** If you are a minor, you may authorize the disclosure of mental health or substance abuse information if you are age 14 or older; for the disclosure of any information about sexually transmitted diseases or birth control regardless of your age; for the disclosure of general medical information if you are age 15 or older.
6. **Special attention:** For information about **HIV/AIDS, mental health, genetic testing or alcohol/drug abuse treatment**, the authorization must clearly identify the specific information that may be disclosed and the purpose.

**Redisclosure:** Federal regulations (42 CFR part 2) prohibit making any further disclosure of alcohol and drug information; state law prohibits further disclosure of HIV/AIDS information (ORS 433.045, OAR 333-12-0270); and state law prohibits further disclosure of mental health, substance abuse treatment, vocational rehabilitation and developmental disability treatment information from publicly funded programs (ORS 179.505, ORS 344.600) without specific written authorization.

**Note:** Oregon’s health services and programs have been transferred from the Department of Human Services (DHS) to the Oregon Health Authority (OHA). DHS will continue to determine eligibility for many of the health programs, as well other programs administered by DHS.



## Survivor Confidentiality and Privacy: Releases and Waivers At-A-Glance

### The Fundamentals

- A survivor should be notified of what is happening with his/her information and who has access to the information. This includes any legal duty to share information or any other limits on confidentiality.
  - It is her/his information – it is her/his choice: It is her/his choice of what information is shared and with whom the information is shared.
  - This includes what information may be included about the survivor in a database.
- A written release is required any time personal information is shared outside of a confidential relationship.
- Before obtaining a release, determine whether there is another way to meet the survivor's needs without revealing her confidential information
- The *who* (who are you/who are the partners) and *what* (what is your role and obligation for confidentiality to the victim) will guide you in whether or not you need a release.

### Innovative Partnerships

- The fact that you have created a partnership does **not** eliminate nor lessen the confidentiality or privilege obligations of each partner agency.
  - Protect the confidentiality of victim information.
  - Recognize that even apparently innocuous information can be very revealing.
  - The most protective standard should be the guide.
- Although these guidelines for confidentiality waivers and releases are primarily for nonprofit advocates, as a partner in an innovative partnership, it is important to know that the information you have received was properly obtained.

### Federal & State Laws

- **VAWA 2005 § 3:** Grantees and subgrantees cannot disclose personally identifying information about persons served without the informed, written, reasonably time-limited consent of the person.
- **State:** Most states have victim/advocate confidentiality for sexual assault and domestic violence survivors and advocates. Check with an attorney in your jurisdiction to see what confidentiality laws apply.
- **Reminders:** If statute or court mandate demands release of information, the person releasing the information must notify the victim of the disclosure and take steps to continue to protect the privacy and safety of the victim. For reporting, evaluation, or data collection requirements purposes, only nonpersonally identifying aggregate data (e.g., 5 women, 1 man, 10 children) may be released.

### Consent must be informed, written, and reasonably time-limited

- **Informed:** Survivors must know what they are agreeing to when signing a release and the consequences of signing the release. They should be aware of how their information will be used and how and when it will be shared. Consider language and other communication barriers.
- **Written:** Releases must be written. If a release is given orally in the very rare emergency situation, the survivor's identity must be verified and she must sign the written release as soon as possible.
- **Reasonably time-limited:** "Reasonably time-limited" is determined by the circumstances, based on the survivor's needs. The shorter the better. Releases can always be signed later for additional time or other purposes. Weigh the importance between minor inconvenience (an advocate having to ask the survivor to sign releases more than once) and the survivor's right to her or his information, confidentiality, and privacy.
- **Reminder:** A waiver or release cannot be a condition of service. Nor can consent be presumed because the survivor chooses to use your services.

### Who can authorize a release?

- An adult survivor who wants to release information.
- An emancipated minor.
- Typically, a teen who can consent to release of information under state law without the need of parental or guardian permission.
- The non-abusive parent/guardian of an unemancipated minor **and** the unemancipated minor.
- The non-abusive, court-appointed guardian of a person who has been adjudicated to have a cognitive disability.

### Best Practices

- Use a uniform detailed release form with survivors.
- Encourage your partners to use similar detailed forms.
- Try to NEVER use an oral release.
- Use written releases even if you have an MOU or confidentiality agreement with a partner agency.
- Have a release for each community partner that gets information. A release that checks off a list of community partners and is not specific as to what information is going to be shared or the consequences of sharing, is not fully informed consent.
- Keep in mind that disparate information, when taken together, can be identifying.
- Don't rely on releases provided by another agency.
- Nonpersonally identifying aggregate data should be sufficient for data reporting purposes.
- Contact your program manager if a funding authority requests identifying information.

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PLACE ON APPROPRIATE AGENCY LETTERHEAD

Note: Organizations are welcome to adapt these sample materials to fit your needs and the work you do. You may change wording to match the language your organization prefers (e.g., survivor or service participant). Before using this template, be sure to remove all notes in blue and replace [Program/Agency Name] with your organizational name.

**Client Notice of Rights/Confidentiality Form for Advocacy Organizations**

As a client of [Program/Agency Name], you have the following rights regarding the confidentiality of your personal information and communications with [Program/Agency Name] staff and volunteers:

1. The information that you provide to [Program/Agency Name] will be kept confidential to the greatest extent allowed by law.
2. You may choose what information you want to provide to [Program/Agency Name]. You will not be denied access to services if you choose to not provide certain identifying information.
3. The information that you provide to [Program/Agency Name], including your name, address, phone number, and other personal information will not be shared with other individuals or agencies without your permission.
4. [Program/Agency Name] staff may be required by law to report certain situations even if you don't give them permission to share or report the situations, such as suspected child abuse or neglect. (Note: List other things that are reportable, as required by state law, such as threats to self or others, elder or at-risk adult abuse, commission of a crime or a civil claim against the [Program/Agency Name] or staff etc.). Staff and advocates will inform you of any reporting requirements prior to having conversations with you and will tell you when they must make a report and what information will be shared. Even when these reports are made, [Program/Agency Name] should not share information beyond what is required by law.
5. Some general information about the types of services provided and overall demographics (e.g., age and income ranges, average number of children, ethnicities) of people that use [Program/Agency Name] services must be shared with the agencies that fund [Program/Agency Name]. However, information that specifically could identify **you** as someone who used [Program/Agency Name] services will never be shared unless specifically authorized in writing by you.
6. After your intake with [Program/Agency Name], you may choose to be referred to other agencies for additional help and support. Agencies we partner with include: (Note: List here, names and types of services, if not clear from the description).
7. You can decide how much or how little of your personal information [Program/Agency Name] will or will not be shared with each partner agency. You will be told, in general, what each partner's obligations are to keep your information confidential. If you choose to have [Program/Agency Name] share some of your personal information with an agency we partner with, you will be told exactly *how* and *what* information will be shared. If you later decide that you don't want the information you have provided to be shared with any of [Program/Agency Name] partners, let us know and we won't share any more information with those partners.
8. If you have any questions or concerns about this notice or your rights, or if you have a concern that your confidential information was not treated appropriately, please contact (*name and number of confidentiality monitor*).

Client: I, \_\_\_\_\_, have received notice of my rights to confidentiality. Date: \_\_\_\_\_

Advocate: I, \_\_\_\_\_, have explained this notice to the client. Date: \_\_\_\_\_

## **General Philosophy and Principles on Confidentiality for Community-Based Domestic Violence/Sexual Assault Advocacy Programs**

### **Introduction**

Communities all around the country are creating innovative partnerships to assist victims of domestic violence, dating violence, sexual assault, and stalking. These innovative partnerships are collaborations among various groups that address systems concerns and individual cases. Some of these innovative partnerships may include agencies or personnel sharing space (co-location) and technology resources, aggregate data collection of client information, case management meetings across agencies, client referrals, and periodic or occasional interactions among staff from different agencies that want to coordinate services.

Structuring or coordinating your innovative partnership has legal and ethical implications, including discussing appropriate approaches for partner agencies to protect or share individual client information. Agencies and professionals who collaborate in an innovative partnership, whether those partners are located in the same physical space or not, should recognize that the goal of the collaboration is to provide access to domestic violence and sexual assault victim services that enhance victim safety and privacy. Victim safety and privacy can be compromised by the failure to maintain the confidentiality of client information. Conversely, information sharing, when authorized by a victim, may increase the effectiveness of service delivery and increase victim safety and offender accountability. Collaborating entities should affirm that confidentiality and privacy protections are critical to serving victims/clients who use any of their services and should agree that they will not share information without the client's authorization or notice to the client (as appropriate, based on agency role and legal mandate).

The collaboration partners should recognize that victims/clients retain the right to choose what personal information to share with the collaboration and its individual partner agencies, including the choice of who within the collaboration (what partners) may have access to the information, at all stages.

The collaborating partners should recognize that the collaboration itself, and the various partners who are collaborating through the partnership, may each have different obligations concerning confidentiality and information sharing. While agencies may have differing obligations, each agency's individual, professional confidentiality obligations must be honored within the entire collaboration.

It should be the policy of the collaboration and its partners to hold confidential (to the extent required under state and federal law and agencies' policies) all communications, observations, and information made by or about victims/clients. If information-sharing is required between certain partners (e.g., between law enforcement and prosecutors), a

victim/client will be notified of this BEFORE she/he signs a release for information to be released to those partners.

## **Vigilance**

The partnership collaboration or the existence of any confidentiality agreement or memorandum of understanding (MOU) between or among partners does not limit or eliminate confidentiality protections for victims/clients. Indeed, it requires constant vigilance in order to ensure that confidentiality of victim/client information is protected.

## **Confidentiality Walls**

“Confidentiality walls” are needed to protect confidential information and to preserve the integrity of the collaboration. Such “walls” may be needed within the collaboration to help establish boundaries and keep confidential information from being shared. Partners may have information sharing prohibitions (e.g., law enforcement may not be able to share information gained from criminal background checks).

## **Adherence to Policy**

Staff, volunteers, counselors, advocates, board members, student interns, consultants, independent contractors, and other community partners of the collaboration should understand that their continued employment or volunteer position is contingent on adherence to all privacy, information sharing, and confidentiality policies.

## **Confidentiality Commitment**

All staff, volunteers, counselors, advocates, board members, student interns, consultants, independent contractors, and community partners must sign a written agreement to comply with all privacy, information sharing, and confidentiality policies. This agreement should be placed in the personnel files of the staff and in the individual files of volunteers, counselors, advocates, board members, student interns, consultants, independent contractors, and other community partners.

## **Notice of Victim/Client Rights**

All victim/clients must be provided information about the agency and the collaboration’s confidentiality policy and practices, and his/her rights under such policies.

## **Duration of Confidentiality**

The obligation to maintain confidentiality does not end when the service to a victim/client is concluded; nor does confidentiality end on the death of the client in many jurisdictions. Confidentiality extends to all current and former victims/clients who seek services. A release should be reasonably time-limited as determined by the purpose of the release and the circumstances of the survivor’s situation. In general, there is no

reason a release should be more than 15-30 days, since the release can be reaffirmed and extended if the survivor authorizes it.

## **Law**

The collaboration and each partner should follow all relevant laws and policies related to confidentiality, information sharing, and privacy of victim/client information. In the event that there is confusion about whether victim/client information should be protected from disclosure, the collaboration should err on the side of protecting the information.

## **Technology**

Technology can both enhance and infringe on protecting confidential client information. The risks and benefits that come from using technology to store, record, or transmit client information while providing advocacy services or counseling should be shared with the client. The client should make the decision of whether to use a specific technology to share his/her information or how a particular technology is used, based on her particular circumstances.

## **Types of Innovative Partnerships**

Common types of innovative partnerships include co-located services, community collaboration, and other coordinated efforts. Each of these innovative partnerships shares common elements, but they also face different challenges and require unique, thoughtful, and specific policies to address those challenges. In addition, each agency within the collaboration should have its own internal confidentiality policies, regardless of the type of collaboration model and regardless of who the collaboration partners are in the innovative partnership.

Suggested confidentiality and privacy policies for co-located services include:

- Client Notice of Rights Form
- Client Limited Release of Information Form
- Policy on Confidentiality and Privacy for Co-Located Services
- Policy on Securing Paper and Electronic Information
- Policy on Sharing Physical Space
- MOU Partnership Agreement for Community Collaborations

Suggested confidentiality and privacy policies for community collaborations include:

- Client Notice of Rights Form
- Client Limited Release of Information Form
- Policy on Confidentiality and Privacy for Community Collaborations
- Policy on Securing Paper and Electronic Information
- MOU Partnership Agreement for Community Collaborations

Suggested confidentiality and privacy policies for coordinated efforts include:

- Client Notice of Rights Form
- Client Limited Release of Information Form
- MOU Partnership Agreement for Community Collaborations

Training on confidentiality should cover, among other things:

- Applicable laws and exceptions.
- Technology use and risks, including using online technology (instant messaging, web interface, e-mail), phones and cell phones, and safe computer use.
- Waivers, including inadvertent waivers of confidentiality.
- Creating effective confidentiality policies.
- Services to special needs populations.
- Confidentiality and information sharing obligations of each partner agency.

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## **Template Policy: Confidentiality, Privacy, and VAWA 2005 for Community-Based Domestic Violence/Sexual Assault Advocacy Programs**

Note: Organizations are welcome to adapt these sample materials to fit your needs and the work you do. You may change wording to match the language your organization prefers (e.g., survivor or service participant). Before using this template, be sure to remove all notes in blue and replace [Agency Name] with your organizational name and anything else in brackets and shaded in gray.

NOTE: This model policy on confidentiality should be the starting point for developing an agency's policies on confidentiality issues, responding to subpoenas and warrants, and reporting of child abuse and neglect. It provides some general guidelines that a domestic violence or sexual assault agency might use as an aid to develop its own policy on confidentiality. Federal law prevents disclosure of personally identifying or individual information about service participants by agencies that receive U.S. Violence Against Women Act (VAWA) funds. States may have other laws that create additional obligations for protecting victim information. Before creating a confidentiality policy, each agency should be familiar with federal law and evaluate the laws in the state in which it operates to ensure that its policy is consistent with federal and state laws and rules.

Confidentiality and privilege laws vary from state to state, as do other laws that may be impacted by the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005). Disclaimer: The National Network to End Domestic Violence (NNEDV) is not an expert on individual state laws and does not provide legal advice to state coalitions or individual programs. The analysis below is not intended to be a substitute for legal advice from a local attorney who is familiar with a specific jurisdiction's laws related to confidentiality and privilege of victim/victim advocate relationships. If you have any questions, please contact the NNEDV Safety Net team at 202-543-5566 or [SafetyNet@nnedv.org](mailto:SafetyNet@nnedv.org).

### **Introduction/General Principles**

In order to ensure the safety and privacy of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking and their families, it is the policy of [Agency Name] to protect the confidentiality and privacy of those who seek services and to hold confidential all personally identifying or individual information, communications, observations, and information made by, between, or about service participants, including the identity of service participants. The Board and all agents, employees, consultants, and volunteers are charged with maintaining the confidentiality of service participants as outlined in [Agency Name] policies and in federal and state law. [Agency Name] shall not disclose any personally identifying information or individual information collected in connection with services requested, utilized, or

denied through its programs or reveal any individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought. The [Agency Name] will avoid any inadvertent release of personally identifying information or individual information about any service participant. The obligation to maintain confidentiality does not end when the service to a participant is concluded. Confidentiality extends to all current and former service participants, including those who were denied services.

It is also the policy of [Agency Name] to keep the physical address of any undisclosed agency locations, as well as the employment, residence, and family addresses of service participants, staff, volunteers, counselors, advocates, board members, student interns, and [fill in other roles in the shelter/agency/program] absolutely confidential.

Staff, volunteers, counselors, advocates, consultants, board members, student interns, and [fill in other roles in the shelter/agency/program] must understand that their employment or volunteer position is contingent on adherence to confidentiality. The [Agency Name] will provide a legal defense to any staff person or volunteer who is subject to a lawsuit because of their compliance with this policy. Service participants must understand that their receipt of services is contingent on rigid adherence to confidentiality.

Confidential information can be released only in accordance with the guidelines set out below.

## **Written Agreement To Maintain Confidentiality**

All service participants, staff, volunteers, counselors, advocates, consultants, board members, student interns, and [fill in other roles in the shelter/agency/program] must sign a written agreement to maintain confidentiality. This agreement will be placed in the personnel files of the staff and in the individual files of service participants, volunteers, counselors, advocates, board members, student interns and [fill in other roles in the shelter/agency/program].

## **Definitions**

NOTE: This model policy provides general guidelines and is consistent with VAWA 2005. However, it does not purport to apply to each variation of state law on issues of confidentiality and privilege. Each agency should examine state laws and rules to ensure that its policy is consistent with the law of its state.

**Confidential information** includes any written or spoken information shared in confidence between a service participant and a counselor/advocate in the course of that relationship, which includes any information that might identify the location or identity of someone who has sought services. Confidential communication includes all

information received by the service participant and any advice, report, or working paper given or made by the counselor/advocate. Any and all knowledge, advice, records, logs, client and organizational records, or working papers (including electronically maintained records relating to a service participant) are confidential and are not to be shared with a third party. Communications are confidential even if the service participant shares the information with third parties, who are working to further the interest of the service participant, in the presence of the counselor/advocate. Confidential documents received from other agencies (for which a service participant had to execute a written release) are confidential and part of the scope of confidential communications.

**‘Personally identifying information’ or ‘personal information’** is individually identifying information about an individual and includes information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking. This information can include—

- a. First and last name.
- b. Home or other physical address.
- c. Contact information (including a postal, e-mail, or Internet protocol address or telephone or facsimile number).
- d. Social security number.
- e. Any other information (including date of birth, racial or ethnic background, or religious affiliation) that, in combination with (a) through (d), would serve to identify an individual.

**Service participant** is any person, including any adult, youth, child, or family who contacts [Agency Name] or receives any services from [Agency Name], whether those services are received by telephone, fax, electronically, or in person and whether those services are sought for themselves or for someone else.

**Staff** includes all paid and unpaid staff, volunteers, counselors, advocates, consultants, board members, student interns, and [fill in other roles in the shelter/agency/program] of [Agency Name]. (NOTE: State law may identify different levels of privilege or confidentiality for different types of staff members. If that is the case in your jurisdiction, you may want to evaluate the definition of staff and make appropriate changes to the model policy or to other policies and practices to ensure that your policies reflect the particular requirements in your jurisdiction.)

## **Prohibition of Release of Information to Anyone Outside the Agency**

**Shelter address:** It is the policy of [Agency Name] to keep the address and location of the shelter absolutely confidential. The address and location of the shelter shall not be disclosed to any source outside [Agency Name]. Staff and service participants shall

avoid inadvertent disclosure of the shelter address and location. (NOTE: Remove this point if shelter address is public.)

**Staff information:** The personal information, including home address, personal telephone numbers, etc., of staff, volunteers, counselors, advocates, board members, consultants, student interns, and [fill in other roles in the shelter/agency/program] are absolutely confidential and shall not be disclosed to any source outside [Agency Name].

**Survivor information:** Staff must not disclose **any** information about a service participant to anyone outside of [Agency Name] without an informed, written, reasonably time-limited consent of the service participant.

1. This includes the following:
  - a. Staff should not disclose any personally identifying information or personal information, including the location or identity of any person who is receiving or has received services. This includes information that, by itself or in addition to other information, could identify or provide the location of a service participant. Similarly, disclosing the identity of any person who has NOT received services is also a breach of confidentiality. An appropriate response to an inquiry would be, "I have no information for you."
  - b. Staff should not disclose whether or not a person has sought, has received, or is receiving services. For example, staff must not confirm or deny the presence of an individual or family at the shelter. An appropriate response would be, "I have no information for you."
  - c. Staff should never acknowledge that someone is receiving services without a specific, informed, time-limited release by the service participant. If asked to take a message, the advocate should respond with the agency's standard phrase: "I can neither confirm nor deny that "X" is here, but I'd be happy to post a message on our bulletin board."
  - d. Staff should not disclose information when ordered to do so by a court mandate without consulting [Agency Name's] attorney.
  - e. Staff should not disclose information when required to do so by a statutory mandate without consulting [Agency Name's] attorney.

If (d) or (e) occurs, staff must immediately contact the Executive Director at [list phone number].
2. Supervisory staff shall ensure that records remain confidential. To avoid the inadvertent disclosure of confidential communication, staff should contact supervisors when they receive a request for information regarding a client.
3. Service participants' should not be identified in any materials used for teaching, public announcements, community education, or in written or verbal reports given to someone outside [Agency Name]. The only exception to this is when the

service participant asks [Agency Name] to identify her/him and gives permission in writing.

4. Funders who must audit service records must sign a confidentiality agreement before viewing any records that may contain protected information. Personally identifying information will be covered, redacted, or removed from records before they are viewed by auditors.

## Releases of Information

Staff may disclose personally identifying information or individual information if the service participant gives them explicit, informed, written, reasonably time-limited consent to do so. Service participants must be clearly advised of the possible consequences of any release of confidential information by [Agency Name].

1. Before service participants authorize the release or disclosure of their information by [Agency Name], the service participant should review the information to be released and evaluate the benefits and drawbacks of releasing that information. The [Agency Name] will ensure that the service participant is informed of the scope of the information to be disclosed, the purpose for which the information is to be released, the duration for which the release is valid, and the ramifications of disclosure, including whether a partial disclosure of information might legally require full disclosure of all confidential information.
2. Releases must be in writing, signed, and dated in ink. The written release must be—
  - a. Specific as to the information being released.
  - b. Include the purpose for the information being released.
  - c. Designate who the individual or agency the information is going to.
  - d. Specify a time limit for the release (which typically should not exceed 15-30 days).
  - e. If needed, a release can be extended if the staff person reaffirms with the survivor that the release is still valid.

Whenever possible, the advocate should witness the service participant's signing the release. The release form shall state that it is revocable at any time by the service participant. After the release is signed, written authorizations will be placed in the service participant's file.

3. [Agency Name] does not require a survivor to provide a release of information in order to receive services. Services will never be denied because a survivor chooses not to sign a release of information.
4. Limited releases: If the service participant gives informed, written, reasonably time-limited consent for release of confidential information, an advocate shall release the specific, limited information per the survivor's request. Under no

circumstances should an advocate release more information than authorized by the survivor in the limited release.

5. Broad releases: If a survivor indicates that she/he is interested in signing a broad release to release a large amount of information (for example, her/his entire case file), staff should exercise care to ensure that the participant fully understands the implications of this release. In addition, staff should try to ensure that the survivor has not been coerced into signing a release. The release shall be reviewed by a supervisor before any information is disclosed. In the absence of a supervisor, the Executive Director shall review it before any information is disclosed.
6. Outside requests for records (subpoenas/court orders): Any response to outside requests for client/victim information will be responded to by the Executive Director, in conjunction with the agency attorney. No other staff member is authorized to release information or respond to outside requests for records.
7. If a service participant verbally revokes an authorization to release information or records, staff should attempt to get that revocation in writing. However, even without written revocation, staff must honor the verbal revocation immediately and not release any information.
8. In cases involving unemancipated minors, the minor's non-abusive parent or legal guardian must sign the release as well as the minor. (NOTE: An agency can provide services to a child without the signature of a parent but cannot release personally identifying or confidential information regarding the minor without a release signed by the minor AND the parent.)
9. If a service participant has been legally adjudicated as unable to sign legal documents and a legal guardian has been court appointed, then the guardian has the right to consent to disclosure of confidential information maintained by [Agency Name]. The legal guardian must provide a certified copy of her/his order of appointment. The service participant shall still be advised that disclosure is anticipated.
10. Blank release forms or release of information forms created by another agency, even if signed by the service participant, are not effective to release confidential information from [Agency Name].

### **Possible Exceptions**

1. **Emergencies which are life threatening or could result in serious bodily harm.** (Note: State laws differ on when disclosure of confidential information is permitted or required under this standard. In many cases, emergencies can be reported and emergency services, such as paramedics and fire fighters, can be contacted without revealing **any** confidential information about a service participant. Even if there is a state law exception that allows for personally

identifying information to be revealed when there is a life-threatening emergency, it may be fairly limited. For example, some states limit disclosure in situations that are life-threatening, but other states do not include this limitation as an exception at all. Review your jurisdiction's laws regarding this exception, and adapt this model policy to be consistent with your state's laws.)

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 s/he was receiving assistance from your organization.

Staff may disclose confidential information when there is a clear and imminent danger that is life threatening or could result in serious bodily harm to an individual. When appropriate and possible, this determination should be made by the Executive Director or [fill in name of alternative decision maker, such as assistant director or shelter director]. If time is of the essence, staff should first call 911 and notify the Executive Director or [fill in name of alternative decision maker, such as assistant director or shelter director] as soon as is reasonable.

2. **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.
3. **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 program participant. 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 or [fill in name of alternative decision maker, such as assistant director or program's attorney].
4. **Other exceptions particular to state law.**

NOTE: Some states have confidentiality exceptions for certain situations including (1) where the service participant has testified, has committed perjury, and the staff has information which impacts the determination of perjury; (2) where the staff testifies only to the appearance of the victim, where her appearance may be an issue in a court proceeding; (3) where the staff is testifying only to the chain of custody of relevant evidence; (4) where the staff may have evidence relevant to the physical, mental, or emotional state of the service participant. In developing confidentiality policies, it is essential to know any particular state law exceptions that should be addressed by agency policies.

I have received and read a copy of [Agency Name]'s policy on confidentiality and understand that as a staff person I am bound by this policy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

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## **Template Policy: Sharing Physical Space for Co-Located Domestic Violence/Sexual Assault Advocacy Programs and Partners**

Note: Organizations are welcome to adapt these sample materials to fit your needs and the work you do. You may change wording to match the language your organization prefers (e.g., survivor or service participant). Before using this template, be sure to remove all notes in blue.

Other document that you can refer to is “Template Policy on Securing Paper and Electronic Information for Co-located Domestic Violence/Sexual Assault Programs and Partners.”

In any co-locating collaboration, a clear physical separation between each partner should exist. If other entities share a building or have physical access to the space occupied by the partnership, the partnership should clearly document how paper records, computer records, and all other victim information will be protected.

**Staff/Advocate Roles:** Anyone with privilege or confidentiality protections should have a separate office with a door or should use a private and closed office to meet with clients and have confidential phone calls.

**Office Space:** If co-located partners meet with victims in offices with windows opening into hallways or to the outside, partners should attempt to use blinds or other coverings to protect the identity of victims within the office.

**Building Security:** If the building occupied by the partnership has building security separate from the partnership’s own check-in processes, the partnership may consider the following protocol provisions:

- If visitor or appointment logs are kept at a building main entrance, the information collected in the logs should be voluntary and optional, and logs should be purged regularly.
- Victim/clients should not be required by building security staff to give their full name to access the program. They should be allowed to share just initials or a first name.
- If victims are uncomfortable sharing their name, building security can call the partnership and someone affiliated with the program can come to greet the victim and determine next steps.
- If visitor badges or nametags that identify a victim/client are offered, the use should be voluntary and optional.

Note: Why purge the security logs? If the security logs can be used to identify clients or potential clients of the partnership, this could compromise confidentiality and privacy. Purging the logs and other records on a reasonable, but short, time frame will help protect confidentiality while providing information necessary for security. Consider a 24/48/72 hour time frame for purging security information. This suggestion is designed to balance the need for client/victim confidentiality and the need for security if a security breach occurs.

## **Template Policy: Securing Paper and Electronic Information for Co-located Domestic Violence/Sexual Assault Program and Partners**

Note: Organizations are welcome to adapt these sample materials to fit your needs and the work you do. You may change wording to match the language your organization prefers (e.g., survivor or service participant).

Collaborating partners will have security policies to protect all electronic, paper, and faxed records in order to maintain the confidentiality of victim information and security of records.

### **Securing Paper Information**

- If a partner keeps confidential records on site, each partner should have their own locked filing cabinet or safe to store paper copies of victim records and removable hard drives.
- All paper copies of victim/client records should be stored in locked filing cabinets or in locked rooms with limited access.
- Clearly defined access levels should identify who has access to the keys for the filing cabinets, storage rooms, and offices. Access should be defined based on the person's job role and a "need-to-know" basis.
- All partners will retain ownership of their own data and their victim/client records.

Physical access also includes adding appropriate security measures to the computers and limiting and securing the use of removable media or devices (laptops, CD's, DVD's, etc).

### **Securing Electronic Information**

- Electronic records should be properly secured with alphanumeric passwords and access levels.
- Access levels/user privileges should be set with consideration of type of access to the data (e.g., read only, add/modify, case review, etc).
- If electronic backups or paper copies of any agency records are stored off site, they should be protected and purged in the same manner and within the same time limits as information stored on site.
- All community partners including attorneys, advocates, and counselors will own their own computer hard drives, external drives, or any other electronic media. If the partnership owns the computer that any partner uses to store victim information, the partner still maintains ownership of all data on the hard drive. If

the partner organization is no longer affiliated with the partnership, the partner should take the hard drive, and the partnership should replace the hard drive:

- Since community partners own any external hard drive used to store records, files, or documents, community partners are responsible for maintaining secure backups of that data.
- Hard drives containing victim information cannot be given to any other organization, thrown away, or given to another partner. Hard drives containing confidential information should be destroyed using sophisticated computer wiping programs where all data is written over or by physically destroying or shredding the hard drive. Using a Windows “High Level Reformat” is not a secure means to destroy confidential victim data.
- Sensitive agency data, whether electronic or paper, is always owned by the agency, regardless of the storage location. For example, if the Partnership purchases file cabinets for all partner agencies, each agency owns the paper files housed in those cabinets. Even if the Partnership purchases computers for all agencies, each individual agency owns the hard drives containing their data.

### **Securing Computers, Networks and Passwords**

- If computers contain sensitive client information, the monitors should be turned so that people walking by cannot see the screen. If victim information is typed into a computer while the victim is present, staff should make an attempt to turn the monitor so that victims can see what is being entered about them.
- If a computer with sensitive information is in a public area, the partners should use password-protected screen savers which activate soon after they walk away from the computer.
- Advocates, counselors, or attorneys who have confidentiality privileges should not share their computer(s) with others who are not protected by the same organization’s confidentiality or privilege protections.

### **Recordings**

Note: As a general rule, unless the partner is a law enforcement agency, videotaping and audio taping of conversations is discouraged.

If a law enforcement agency uses video or audio taping, regular policies and procedures of their agency should be followed. If any other partner needs to use video or audio taping to enhance security or for teaching purposes, victim/clients should be informed prior to any audio or videotaping of their conversations with staff or volunteers. Victims/clients should be offered the option to opt out of participating in any recorded conversations (unless the recording is required by law enforcement.) Any audio or videotaping for security or teaching purposes should be purged as soon as possible.

## **Password protection**

If an agency or collaboration program chooses to have an electronic recordkeeping system and a user forgets a password, the user should be required to do one of the following:

- Use paper files until they are able to reach the system administrator for a new password.
- Log in with the permission of another user with a similar access level under that user's account. Carefully document the anomaly and then have both users' passwords changed within 12 hours or as soon as they are able to reach the system administrator.
- Contact the on-call system administrator.

## **Shared Electronic Networks**

- If the collaboration program owns the computers and network and provides all networking, then partners with confidential information should make every attempt to save confidential data to external hard drives. Agency partner computers can be set to prevent information from being saved to the "C drive" or any network drives, so that all victim information is saved to an external drive.
- All computers with Internet access or those networked to others with Internet access should be secured with firewalls and updated virus protection.
- If an agency partner chooses to have email or Internet access on a free-standing computer containing victim information (not networked to other partners or entities), then the partner should be responsible for installing and maintaining firewall(s), anti-virus software, and implementing all reasonable computer security measures.
- User authentication should be controlled by user account and password, PIN, or other equally secure or more secure means.
- Users should be required to change passwords periodically, and the account can be set to automatically lock after a predetermined number of unsuccessful logins.
- Password transmission and storage should be encrypted and not be viewable even to system administrators.
- The user should be automatically logged off after a defined period of inactivity.
- Audit trails should include logon, logoff, unsuccessful logon attempts, screens viewed, and reports printed.

- Audit log entries should capture data entries, changes and deletions, and time stamp entries.

## **Maintaining the Confidentiality of Incoming and Outgoing Faxes**

Collaborating partners with confidentiality or privilege should have security policies to protect all incoming and outgoing faxes in order to maintain the confidentiality of victim information.

### **Incoming Faxes**

1. Each agency/partner with confidentiality should have its own fax machine for incoming faxes.
2. If each agency can not afford its own fax machine and must share a fax, then:
  - The advocate should ask the person faxing the document to call ahead so that the advocate can make a reasonable attempt to remove the fax promptly from the shared fax machine.
  - If the shared fax machine saves scanned documents to a hard disk, the agency partner or collaboration program should attempt to continually overwrite the memory of the centrally located fax machine.
  - Because of the increased security risks and increased risk for interception, the partnership and each agency partner are encouraged to not use email-based faxing to receive confidential victim/client data or records.

### **Outgoing Faxes**

- If the victim/client authorizes the release of information by fax, she/he should be advised of the inherent risks of faxing information, including the potential for misdialing or the chance that the fax may be picked up by someone other than the intended recipient.
- If confidential client information is being faxed out of the agency or collaboration program (after the client has authorized its release) the person faxing the information should call the recipient before sending the fax to confirm the number and to confirm that the intended recipient will be waiting by the fax machine to receive the fax personally.
- The cover sheet of the fax should include a reminder to cut off the fax header information after receiving a faxed document.

<b>Best Practices to Consider:</b>
------------------------------------

- 1) Confidential client/victim information should not be stored on a computer that is connected to the Internet.
- 2) Assess security protections by having a third party test the protections that are in place and make changes to increase security as necessary.
- 3) Ideally each community partner should delete identifying or sensitive information as soon as the information has served its purpose.
- 4) Perform occasional quality control audits to check that client authorization was received and that appropriate clearance levels/reviews were conducted before information was released.

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## **Template Policy: Confidentiality and Privacy for Community Collaboration with Domestic Violence/Sexual Assault Advocacy Programs and Partners**

Note: Organizations are welcome to adapt these sample materials to fit your needs and the work you do. You may change wording to match the language your organization prefers (e.g., survivor or service participant). Before using this template, be sure to remove all notes in blue and replace [Community Collaboration] with your collaborative partnership's name.

Other document you can refer to is "Client Notice of Rights/Confidentiality Form for Advocacy Organizations."

### **I. Introduction**

The partners in [Community Collaboration] who are governed by this policy recognize and understand that:

#### **Service Provider Understandings and Responsibilities**

All Collaboration Program partners should identify and understand which agencies and providers are required by law to maintain confidentiality and/or privileged communications with victim/clients; and the extent of such confidentiality and privilege protections. Partners should also identify which partners have information sharing obligations (such as between police and prosecutor).

- Every staff and volunteer of each partner agency, and the collaboration as a whole must prioritize and honor confidentiality of victim information to the extent determined by their legal and ethical roles and responsibilities.
- Appropriate, secure partnering among governmental and non-governmental agencies can enhance safety and privacy for victims of domestic violence and sexual assault.
- The partners have, as a **common** goal, to provide domestic violence and sexual assault services that enhance victim safety and privacy.
- Victim safety can be compromised by the failure to maintain the confidentiality of client information.
- Information sharing may increase the effectiveness of service delivery and increase victim safety and abuser accountability when authorized by a victim who is fully aware of the risks and benefits of sharing her or his personal information.

- Each partner continues to maintain its own legal and ethical obligations to honor victims' confidentiality and privacy; or depending on the agency, legal obligations to share information.
- Releases of information should be client-centered, with the victims (who use the services offered by the collaboration) determining when and how their information will be shared among the partners or outside of the partnership, consistent with the requirements of law.
- Releases of information should enhance services provided to the survivor and not for the sole purpose of easing the program's administration.
- The most protective privacy option will always be considered. Before a victim chooses to sign a release, the partner will determine if there is another way to accomplish the purpose without the advocate or agency releasing the survivor's personally identifying information.
- Different professionals within the Community Collaboration have different levels of confidentiality, privilege, and information sharing obligations. Where a confidential relationship exists (for example, between a domestic violence or sexual assault advocate and the client), the **presence of third parties may void that confidentiality**. (For example, a sexual assault advocate's privilege could be compromised when she accompanies a victim to a law enforcement interview).
- [Collaboration Name] partners will identify which partner organizations and staff roles are required by law to maintain confidentiality and/or privileged communications with victim/clients, and the extent of such confidentiality and privilege protections.
- The partners who are governed by this policy have signed a partnership agreement that defines the roles of each partner and each partner's ethical and legal obligation regarding confidentiality and information sharing.

### **Victims' Rights**

- The victims who use the services offered by the collaboration or any of its partners, retain their right to confidentiality from agencies within the collaboration that have confidential relationships with victims.
- Victims will be notified of any information sharing obligations that may apply to some partners (such as police or prosecutors).
- Victims who use the services offered by the collaboration will determine when and how their information will be shared with others, consistent with the requirements of law.

- Victims waiving their confidentiality rights, must be fully advised of the risks, benefits, and time frame of the waiver before signing the release. Releases of information must be written, informed, and reasonably time-limited.

## **II. Addressing Systems Issues Through the Community Collaboration**

- A. Partners of the [Community Collaboration] may meet and discuss issues related to process and system response without sharing individual, personally identifying client information.
- B. Agencies that have confidential relationships with clients/victims (e.g., domestic violence or sexual assault agencies or legal services) will consider having staff members who do not have confidential information about victim/clients attend the [Community Collaboration] meetings to avoid the inadvertent or perceived unauthorized sharing of personally identifying information.
- C. Personal identifying information such as name, address, and phone number, must not be shared by agencies that have confidential relationships with clients/victims unless the victims/clients provide specific, informed, written, reasonably time-limited consent.
- D. It should be the policy of the collaboration and its partners to hold confidential (to the extent required under state and federal law and agencies' policies) all communications, observations, and information made by or about victims/clients. If information-sharing is mandated between certain partners (e.g., between law enforcement and prosecutors), a victim/client will be notified of this BEFORE she/he signs a release for information to be released to those partners.

## **III. Limited Sharing of Client/Victim Information with Community Collaboration Partners**

- A. Partner agencies do not need a release of information to provide services, but a release may be necessary to share a victim/client's personal information with any other partner or agency. For a non-profit advocacy program to share the victim/client's information with members of [Community Collaboration], a release is necessary.
- B. Victim/client privacy and confidentiality must be preserved and honored and, where there is a confidential relationship between a victim/client and one of the partners of the [Community Collaboration], the victim/client's personally identifying information cannot be shared without an informed, written, reasonably time-limited consent of the victim/client.
- C. Personally identifying information about victim/clients generally does not need to be shared with members of the [Community Collaboration] in order to assist victim/clients in the community.

- D. Demographic information can be shared with the [Community Collaboration]. Each partner shall maintain and protect its own personally identifying records as needed and allowed by law.
  
- E. Because of legal and confidentiality concerns, the [Community Collaboration] will not maintain central databases that include personally identifying information about victim/clients. Each partner shall maintain and protect their own database(s) of personally identifying information, if databases are needed by an individual partner.

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[YOUR LETTERHEAD HERE]

Note: Organizations are welcome to adapt these sample materials to fit your needs and the work you do. You may change wording to match the language your organization prefers (e.g., survivor, client, service participant). Before using this template, be sure to address and then remove all notes in yellow and replace [Program/Agency Name] with your organizational name.

Note: The purpose of this form is to ensure that each visitor to a confidential shelter, rape crisis center, transitional housing, or other victim service agency understands their confidentiality obligations and respects the privacy of clients, staff, and volunteers of the agency or collocated partnership.

### **Visitor Confidentiality Agreement**

I understand that for safety and for legal reasons, all information pertaining to anyone who seeks or has received the services of [Non-Profit Program/Agency/Partnership Name] must be kept confidential. This includes the identity of those who seek services, their names, gender, age, number of children, addresses, types of services received, and place where services were sought or received, and any other information that could identify the individual. I understand that this information is NOT to be shared with anyone including [insert: other agencies, treatment providers, law enforcement, or the Department of Social Services, etc.].

I will maintain the confidentiality of those people I meet in this [insert: shelter, rape crisis center, transitional housing, family justice center, etc.] or through the [Non-Profit Program/Agency/Partnership Name] programs, including personal details of the [Non-Profit Program/Agency/Partnership Name] staff or volunteers.

In addition, because of significant security issues, I understand that the [insert: shelter, rape crisis center, transitional housing, etc.] location must be kept confidential.

I understand that my confidentiality obligation is on-going and it does not end when my visit to or relationship with this [Non-Profit Program/Agency/Partnership Name] ends.

I agree to abide by the guidelines above. I understand that failure to respect these confidentiality guidelines may result in me being barred from [Non-Profit Program/Agency/Partnership Name] programs. In addition, depending upon the impact of my confidentiality breach, I may also be subject to civil or criminal liability. This confidentiality agreement was created to ensure the safety and privacy of service recipients, staff and volunteers. I agree to notify a supervisor or the Executive Director immediately if I have questions or concerns regarding this agency confidentiality agreement.

Visitor Printed Name \_\_\_\_\_ Date: \_\_\_\_\_

Visitor Signature \_\_\_\_\_

[APPROPRIATE AGENCY LETTERHEAD]

**READ FIRST:** Before you decide whether or not to let [Program/Agency Name] share some of your confidential information with another agency or person, an advocate at [Program/Agency Name] will discuss with you all alternatives and any potential risks and benefits that could result from sharing your confidential information. If you decide you want [Program/Agency Name] to release some of your confidential information, you can use this form to choose what is shared, how it's shared, with whom, and for how long.

I understand that [Program/Agency Name] has an obligation to keep my personal information, identifying information, and my records confidential. I also understand that I can choose to allow [Program/Agency Name] to release some of my personal information to certain individuals or agencies.

I, \_\_\_\_\_, authorize [Program/Agency Name] to share the following specific information with:  
name

<b>Who I want to have my information:</b>	Name:
	Specific Office at Agency:
	Phone Number:

The information may be shared:  in person  by phone  by fax  by mail  by e-mail  
 I understand that electronic mail (e-mail) is not confidential and can be intercepted and read by other people.

<b>What info about me will be shared:</b>	(List as specifically as possible, for example: name, dates of service, any documents).
<b>Why I want my info shared: (purpose)</b>	(List as specifically as possible, for example: to receive benefits).

Please Note: there is a risk that a limited release of information can potentially open up access by others to all of your confidential information held by [Program/Agency Name].

**I understand:**

- That I do not have to sign a release form. I do not have to allow [Program/Agency Name] to share my information. Signing a release form is completely voluntary. That this release is limited to what I write above. If I would like [Program/Agency Name] to release information about me in the future, I will need to sign another written, time-limited release.
- That releasing information about me could give another agency or person information about my location and would confirm that I have been receiving services from [Program/Agency Name].
- That [Program/Agency Name] and I may not be able to control what happens to my information once it has been released to the above person or agency, and that the agency or person getting my information may be required by law or practice to share it with others.

*Expiration should meet the needs of the victim, which is typically no more than 15-30 days, but may be shorter or longer.*

**This release expires on** \_\_\_\_\_  
Date Time

I understand that this release is valid when I sign it and that I may withdraw my consent to this release at any time either orally or in writing.

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_ **Witness:** \_\_\_\_\_

<b>Reaffirmation and Extension (if additional time is necessary to meet the purpose of this release)</b>	
I confirm that this release is still valid, and I would like to extend the release until _____ New Date New Time	
<b>Signed:</b> _____	<b>Date:</b> _____ <b>Witness:</b> _____

## **Confidentiality and Sharing of Information in the Domestic Violence and DHS Collaboration**

### **Disclosure of Information by Child Welfare:**

ORS 419B.035 authorizes DHS Child Welfare to disclose reports and records compiled under the child abuse reporting law without a signed authorization if:

A) Disclosure is in the best interests of the child who is the subject of the report AND disclosure is necessary for DHS to administer its child welfare services; or

B) Disclosure is necessary to investigate, prevent or treat child abuse and neglect or to protect children from abuse and neglect.

Pursuant to ORS 419B.035, DHS Child Welfare may disclose to domestic violence advocates or any other person a current child abuse referral and information gathered during the assessment of that report without a signed authorization if disclosure meets either of the two criteria described above.

DHS Child Welfare is not permitted to disclose records and reports compiled under the child abuse reporting law if the sole purpose of the disclosure is to provide services to or protect an adult domestic violence victim. Any disclosure of the described records must be linked to protecting the best interests of the affected child AND necessary for DHS to administer its child welfare services OR for the purpose of investigating, preventing or treating child abuse or protecting children from child abuse.

As soon as possible and in any event no later than when the CPS assessment process is over and a disposition is determined, the DHS Child Welfare worker must obtain signed authorizations to release additional information.

### **Disclosure of Domestic Violence Information by Self-Sufficiency:**

Confidentiality is assumed in cases where domestic violence is a factor. Both the Code of Federal Regulations (45 CFR 260.52) and State statute (ORS 411.117) instruct the TANF program to keep information confidential about individuals experiencing domestic violence. Information shared should be limited to the minimum necessary and should not be shared without a signed release or unless required under mandatory abuse reporting guidelines.

**Releases:** Both Child Welfare and Self-sufficiency Programs use the MSC 2099 for release of information. This release includes who the information may be released to, the specific information to be released, the purpose of the release and when the release expires.

### **Disclosure of Information by Domestic Violence Service Providers:**

Domestic violence service providers who are grantees or sub-grantees under VAWA 2005 § 3, cannot disclose personally identifying information about people served without their informed, written, reasonably time-limited consent.

If information release is compelled by a judge, the DV service provider must notify the survivor and make a safety plan with them about the compelled release.

Oregon state statute does not name domestic violence service providers in child abuse mandatory reporting statutes, so they are prevented from reporting by the confidentiality requirements of VAWA. Individuals working in a domestic violence program who are mandatory reporters because of their credentials or other professional status are exempted from the VAWA requirements and must report.

## Domestic Violence and the Mandatory Reporting Act for SSP Workers

**General Rule:** Information received by SSP in identifying domestic violence victims shall remain confidential.  
(45 CFR 260.52 and ORS 411.117(2))

Properly Signed Release  
(DHS 2099)

Exceptions

Information shared under the  
Mandatory Reporting Act  
(See "What can you do about child  
abuse" DHS 9061)

### Mandatory Reporting Situations

SSP employees are required to report known or suspected child abuse.  
However, not all Domestic Violence situations involve child abuse.

SSP employee **knows** of actual child abuse **or is unsure** if a potential threat rises to the level of a mandatory report

**Call CPS Screener or Hotline**  
They will determine whether child abuse  
(including the threat of substantial harm) is  
present.

## Frequently Asked Questions related to Children Witnessing Domestic Violence:

**1. Does every domestic violence situation with children present have to be reported to child welfare?**

- A. No. No one believes that children witnessing domestic violence is a good thing. Neither do we believe that removing children from the non-abusive parent is a good thing. The presence of domestic violence is a risk to children. However, not all situations of children witnessing domestic violence require a report to DHS or law enforcement. Please refer to mandatory reporting guidelines (PAM 9061 Rev. 01/12). DHS's authority to intervene with families is based on whether a child is being physically abused, sexually abused, neglected, suffering mental injury, or is being subjected to an activity or condition likely to result in substantial harm. Helping the non-abusive parent to be safe reduces the risk to children.

**2. How do we decide what is a mandatory report?**

- A. First, we always report if the child has been physically or sexually abused, neglected or is suffering mental injury. In addition, under threat of harm guidelines, we would report if there is reasonable cause to believe there is a potential for substantial harm. The guidelines for mandatory reporting (PAM 9061 Rev. 01/12) states the following:

*A report to DHS or law enforcement is necessary when there is a reasonable cause to believe*

1. There is current domestic violence or the alleged abuser has a history of domestic violence.

AND

1. One of the following:
  - There is a reason to believe the child will or is intervening in a violent situation, placing him at risk of "substantial harm."
  - The child is likely to be "harmed" during the violence (being held during the violence, physically restrained from leaving, etc.).
  - The alleged abuser is not allowing the adult care giver and child access to basic needs, impacting their health or safety.
  - The alleged abuser has killed, committed "substantial harm," or is making a believable threat to do so to anyone in the family, including extended family members and pets.
  - The child's ability to function on a daily basis is substantially impaired by being in a constant state of fear.

If you know a child is witnessing repeated or serious domestic violence and you are unsure of the impact on the child, call and consult a CPS screener.

**3. Does not reporting a DV situation mean one does not value the safety and well being of children?**

- A. No, domestic violence does present a risk both to children and to adult victims. Helping the adult victim to establish a safety plan, working with domestic violence service providers and providing help for the victim to flee through “Temporary Assistance to Domestic Violence Survivors” promotes the safety of children and adult victims. Holding abusers accountable for their behavior is the best way to prevent domestic violence.

Remember, removing a child, already traumatized by the domestic violence, from the non-abusive parent can be even more detrimental to the child. The best solution is to protect both women and children.

**4. The Legislature passed a law clarifying domestic violence occurring in the presence of a minor as a felony, so doesn't this mean we have to report to child welfare.**

- A. No, this law, passed in 1998 as SB 553, does not change mandatory reporting laws. Domestic violence is often charged under misdemeanor assault 4. SB 553, allows a prosecuting attorney to charge the crime as a felony if the person has previously been convicted of assaulting the same victim; or the assault is witnessed by the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim.

**5. Are you asking mandatory reporters to become child protective services screeners?**

- A. No, if you believe that a child is a risk, you can always consult with child welfare, they will help you determine if the situation should be reported. The guidelines developed by a group consisting of domestic violence advocates, child welfare and mandatory reporters are intended to be examples of what “substantial harm” might look like.

Each discipline has questions that they ask victims of domestic violence as part of their case planning process. For Self Sufficiency staff those questions are to help develop a plan focused on safety for the adult victim. Any information that leads you to believe that a child is being abused should be reported to child welfare or law enforcement. They will do the screening.

## *Temporary Assistance for Domestic Violence Survivors* **Program Summary**

Do you know someone who needs help to flee or stay safe from domestic violence? The *Department of Human Services* may be able to help. The *Temporary Assistance for Domestic Violence Survivors* (TA-DVS) is a program which provides temporary financial assistance and support services during domestic violence crisis or emergency situations. Most often when the domestic violence survivor and children are fleeing domestic violence or at risk of returning to the abuser.

### **The basic eligibility requirements include...**

- ❖ A continued risk or emergent need due to domestic violence.
- ❖ The survivor must be a resident of Oregon.
- ❖ The survivor must be a relative of and live with a minor child or be pregnant.
- ❖ The survivor's available income must be below TANF countable income standards. Income controlled by the abuser or used to help the family stay safe is not counted.
- ❖ Other TANF eligibility requirements may apply.

### **About the program...**

§ We pay the minimum needed to stay safe, **up to \$1200.00**, over the 90 day eligibility period, for families fleeing abuse or to assist families in remaining free from abuse. If the survivor has income, we will ask them to pay part of the costs for housing or other needs. We may also ask the survivor to access community resources. Payments are made directly to landlords or to providers of specific services.



Program benefits include one time **housing related costs** (rent, deposits, mortgage payments, utilities) when the need is caused by domestic violence; payments to **increase safety** (locks, P.O. Box, etc.) and payments to **replace household or personal items** (clothes for survivor and children, essential household furniture, etc.) that had to be left behind when fleeing abuse.



A **Domestic Violence Assistance Agreement**, is written with each participant. The plan contains activities that address the safety needs of the family, referral to local community resources and steps to help the family stabilize from the domestic violence. Payments can be made for child care; transportation; etc. to support completion of the agreement.



**Safety is the top priority.**

Many TA-DVS and TANF eligibility requirements may be waived if they put a person at risk of harm by domestic violence. This includes citizenship requirements for battered immigrant women.

***Survivors may apply by contacting a DHS Self Sufficiency field office. Their addresses and phone numbers are listed under the State section of the phone book.***

## Sensitive Practice At-a-Glance

The goal of Sensitive Practice is to foster a sense of safety for clients. By adopting the principles of Sensitive Practice as a standard, DHS staff convey respect, support clients autonomy and the right to participate in decision making processes within DHS and decrease the likelihood of inadvertently re-traumatizing the survivors of abuse with whom we work knowingly or unknowingly.

<b>Summary of Principles of Sensitive Practice<sup>1</sup> for DHS Staff</b>	
Respect	Acknowledging the inherent value of clients as individuals with unique beliefs, values, needs, and histories means upholding and defending their basic human rights and suspending judgment of them.
Taking Time	Taking adequate time with clients ensures that they do not feel depersonalized or objectified.
Rapport	Developing and maintaining an interpersonal style that is professional, yet conveys genuine caring, promotes trust and a sense of duty.
Sharing Information	Informing clients of what to expect on an on going basis and inviting them to ask questions and offer information and feedback helps reduce anxiety and promotes active engagement in the planning process.
Respecting Boundaries	Paying ongoing attention to boundaries and addressing difficulties that arise reinforces the client's right to personal autonomy.
Fostering Mutual Learning	Fostering an environment in which information sharing is a two-way process encourages survivors to learn about options and how to become an active participant in the creation of their plan. It also assists DHS staff to learn how to best work with individuals who have experienced interpersonal violence.
Understanding nonlinear healing	Checking in with the survivor throughout each encounter and over time, and being willing to adjust their actions accordingly, enables DHS staff to meet the needs of individuals whose ability to tolerate questions and information sharing may vary over time.
Demonstrating awareness and knowledge	Showing that they are aware of interpersonal violence helps professionals foster a sense of trustworthiness and promotes an atmosphere in which survivors are willing to work alongside DHS staff.

<sup>1</sup> Adapted from Sensitive Practice At-a-Glance – Handbook on Sensitive Practice for Health Care Practitioners

<b>Responding Effectively</b>	
Waiting areas	<ul style="list-style-type: none"> <li>• Keep clients informed of the length of wait or invite the client to check intermittently</li> <li>• Provide printed materials about domestic violence and sexual assault</li> </ul>
Privacy	<ul style="list-style-type: none"> <li>• Have at least one soundproof interview room</li> <li>• Knock and wait for acknowledgement before entering</li> <li>• Problem-solve with clients to meet their needs for privacy or safety</li> </ul>
Preparation of Clients	<ul style="list-style-type: none"> <li>• Provide introductory information in plain language, both written and verbal</li> <li>• Negotiate with client to identify workable solutions</li> <li>• Don't assume the client knows what is involved in our processes</li> </ul>
Non-adherence to a plan	<ul style="list-style-type: none"> <li>• Explore all types of barriers with the client and problem solve to identify workable solutions</li> <li>• Adapt the plan to fit the client</li> <li>• Create a "same-day" appointment for clients who frequently cancel appointments or don't show</li> </ul>
SAVE the situation	<ul style="list-style-type: none"> <li>• Stop what you are doing and focus fully on the present situation</li> <li>• Appreciate and understand the person's situation</li> <li>• Validate the person's experience</li> <li>• Explore the next steps with the client</li> </ul>
Anger & Agitation	<ul style="list-style-type: none"> <li>• Pay attention to personal safety</li> <li>• Adopt non-threatening language</li> <li>• Negotiate and assure the client of your interest and concern</li> <li>• Become familiar with signs of a "fight or flight" response</li> </ul>
Disclosure	<ul style="list-style-type: none"> <li>• Accept the Information</li> <li>• Express empathy and caring</li> <li>• Clarify confidentiality</li> <li>• Normalize the experience by acknowledging the prevalence of abuse</li> <li>• Validate the disclosure and offer reassurance to counter feelings of vulnerability</li> <li>• Address time limitations</li> <li>• Collaborate with the survivor to develop an immediate plan for safety</li> <li>• Recognize that direct action is not always required</li> <li>• Ask whether it is a first disclosure</li> <li>• Inquire about social support around the abuse and safety issues</li> <li>• Work with the client to set realistic goals and determine appropriate referrals</li> </ul>

# Helping Domestic Violence Survivors Cope with a Traumatic Event<sup>1</sup>

## What is a Traumatic Event?

An event, or series of events, that causes moderate to severe stress reactions, is called a traumatic event. Traumatic events are characterized by a sense of horror, helplessness, serious injury, or the threat of serious injury or death. Traumatic events affect survivors, rescue workers, and friends and relatives of victims who have been directly involved. In addition to potentially affecting those who suffer injuries or loss. Most people report feeling better within three months after a traumatic event.

## Common Responses to a Traumatic Event

Cognitive	Emotional	Physical	Behavioral
<ul style="list-style-type: none"> <li>• poor concentration</li> <li>• confusion</li> <li>• disorientation</li> <li>• indecisiveness</li> <li>• shortened attention span</li> <li>• memory loss</li> <li>• unwanted memories</li> <li>• difficulty making decisions</li> </ul>	<ul style="list-style-type: none"> <li>• shock</li> <li>• numbness</li> <li>• feeling overwhelmed</li> <li>• depression</li> <li>• feeling lost</li> <li>• fear of harm to self and/or loved ones</li> <li>• feeling nothing</li> <li>• feeling abandoned</li> <li>• uncertainty of feelings</li> <li>• volatile emotions</li> </ul>	<ul style="list-style-type: none"> <li>• nausea</li> <li>• lightheadedness</li> <li>• dizziness</li> <li>• gastro-intestinal problems</li> <li>• rapid heart rate</li> <li>• tremors</li> <li>• headaches</li> <li>• grinding of teeth</li> <li>• fatigue</li> <li>• poor sleep</li> <li>• pain</li> <li>• hyper-arousal</li> <li>• jumpiness</li> </ul>	<ul style="list-style-type: none"> <li>• suspicion</li> <li>• irritability</li> <li>• arguments with friends and loved ones</li> <li>• withdrawal</li> <li>• excessive silence</li> <li>• inappropriate humor</li> <li>• increased/decreased eating</li> <li>• change in sexual desire or functioning</li> <li>• increased smoking</li> <li>• increased substance use or abuse</li> </ul>

## How Do You Interact with DV Survivors after a Traumatic Event?

The worker should be alert to the various needs of the traumatized person.

- Listen and encourage the client to talk about their reactions when they feel ready.
- Validate the emotional reactions of the person. Intense, painful reactions are common responses to a traumatic event.
- De-emphasize agency jargon.
- Communicate, person to person rather than “expert” to “victim,” using straightforward terms.

## What Can You Do to Help Clients Cope with a Traumatic Event?

Explain their reactions may be normal, especially right after the traumatic event, and then encourage your client to:

- Not blame themselves.

- Identify concrete needs and attempt to help. Traumatized persons are often preoccupied with concrete needs.
- Identify sources of support including family and friends. Encourage talking about their experiences and feelings with supportive friends, family or other support networks (e.g. domestic violence service providers, counselors, clergy)
- Learn to recognize early warning signs for physical abuse such as a partner's extreme jealousy, controlling behavior, verbal threats, history of violent tendencies or abusing others, and verbal or emotional abuse.

### **Who is at Risk for Severe and Longer Lasting Reactions to Trauma?**

Some people are at greater risk than others for developing sustained and long-term reactions to a traumatic event including disorders such as a post traumatic stress disorder (PTSD), depression, and generalized anxiety. Factors that contribute to the risk of long-term impairment such as PTSD are listed.

- Proximity to the event. Closer exposure to actual event leads to greater risk.
- Multiple stressors. More stress or an accumulation of stressors may create more difficulty.
- History of trauma.
- Meaning of the event in relationship to past stressors. A traumatic event may activate unresolved fears or frightening memories.
- Persons with chronic medical illness or psychological disorders.

### **What Can You Do to Support Survivors in Response to a Traumatic Event?**

Helping survivors of traumatic events and their family members requires preparation, sensitivity, assertiveness, flexibility and common sense.

- Refer survivors to the domestic violence or sexual assault service provider in your area.
- Refer survivors to mental health professional who have experience treating the needs of survivors of traumatic events.
- Learn to identify symptoms of anxiety, depression, and PTSD.
- Know what services are available for victims and perpetrators of domestic violence in your community.
- Learn more about domestic violence. The more you know about domestic violence, the easier it will be to recognize it and help clients who may be victims or perpetrators.

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<sup>i</sup>Adapted from CDC Fact Sheets - *Helping Patients Cope With A Traumatic Event; Intimate Partner Violence: Prevention Tips and Resources; Coping with a Traumatic Event (Public)*

# DHS ADMINISTRATIVE HEARINGS

## 1. INTRODUCTION

You have a right to request a hearing in many instances including an action to deny, reduce, change, close or suspend your grant or services. You can also ask for a hearing when the agency has not acted on a request in a timely fashion.

## 2. WHEN DO I ASK FOR A HEARING?

You have a right to a hearing any time you think your welfare, disability or food stamps worker:

1. Has wrongly *denied* you money, medical coverage, or food stamps (benefits); **or**
2. Has wrongly *reduced* your benefits or medical services; **or**
3. Has *not acted* on your request for assistance. For example:
  - a. TANF, Assessment Payment, JOBS Support Services request, General Assistance or Oregon Health Plan (OHP) within 45 days;
  - b. an application for food stamps within 30 days;
  - c. emergency food stamps within 7 days;
  - d. or has not acted upon your application for Temporary Assistance for Domestic Violence Survivors (TA-DVS) by the second working day after application; **or**
4. Is wrongly claiming that you have an overpayment.

OAD 461-025-0310; 461-135-1235  
OAD 461-115-0190; 461-115-0210

## 3. WHAT IS AN ADMINISTRATIVE HEARING?

A hearing is your opportunity to present your side of the case to a neutral decision-maker called an Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH). They are independent of DHS or DSO offices. The ALJ will listen to you, listen to your witnesses and look at any documents you provide. The ALJ will also consider the evidence provided by the agency.

The hearing is recorded and all witnesses swear to tell the truth, but it is much less formal than court. Hearings are mostly held by telephone. You can participate in the hearing from your home. In some situations, a hearing may be in person and take place in a room at your local DHS or DSO office. The ALJ may appear in person or may be in Salem and participate by teleconference.

## 4. HOW DO I REQUEST A HEARING?

You can ask for a hearing by filling out **DHS Form 443 (Administrative Hearing Request)**, which you can get in the reception area of your branch office of the Department of Human Services (DHS) or Aging and Disability Services Office (DSO). If you cannot find the form, ask the receptionist to give you one. ***You do not have to get it from your worker.***

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[www.oregonlawhelp.org](http://www.oregonlawhelp.org)

The form is also available on the Internet. Go to [www.dhs.state.or.us](http://www.dhs.state.or.us). Click on "Forms" at the top. Then click on "Find a DHS Form." Type in "443" for the number and click on "Search."

*After you fill out the hearing request form turn it in at your local DHS office. You should ask the receptionist for a receipt when you turn in this form at the branch office.*

You can represent yourself at the hearing. If you want to have an attorney represent you, or if you need legal advice, call the Public Benefits Hotline of Legal Aid and the Oregon Law Center, 1-800-520-5292.

OAR 461-025-0310(4)

## 5. HOW SOON DO I ASK FOR A HEARING

*You must ask for a hearing within 45 days of the date on the Notice of Action.* This means a completed hearing request on the **DHS Form 443** must be received by the agency *within 45 days.* *For food stamps, you have 90 days to request a hearing,* but you should ask for a hearing as soon as possible.

OAR 461-025-0310

## 6. HOW DO I KEEP GETTING BENEFITS UNTIL MY HEARING DECISION?

When you receive a notice to cut off or reduce your benefits, ask for a hearing within *10 days* of the date the notice was mailed or prior to the date the action to cut off or reduce your benefits goes into effect (this is often the end of the month you receive benefits.)

In almost all cases you have the right to keep getting the same amount of assistance or food stamps until you receive the written hearing decision.

Be sure to save the envelope your notice came in so you can prove when the notice was mailed. You will not be able to keep your benefits while you wait for a hearing if the notice to cut off your benefits came when you reapplied for benefits.

*NOTE: If you lose your hearing, any benefits you received during this time will be an overpayment that you will have to repay.*

OAR 461-025-0311

## 7. HOW SOON WILL I GET A HEARING?

Normally, a hearing will be scheduled in a few weeks to a few months from your request. If you are requesting a hearing about:

- Expedited food stamps
- Temporary Assistance to Domestic Violence Survivors (TA-DVS)
- The denial of continued benefits while your hearing is pending

you have a right to a fast hearing called an "*expedited hearing.*" An "*expedited hearing*" must be scheduled within 5 working days of the date you turned in your hearing request.

The Administrative Law Judge (ALJ) must make a decision within 3 working days of the hearing for Temporary Assistance to Domestic Violence Survivors (TA-DVS,) continuation of benefits while your hearing is pending, and JOBS payments, and Assessment payments hearings.

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The Administrative Law Judge (ALJ) must make a decision within 9 working days for food stamps.

"Working days" are the days when DHS or DSO is open.

OAR 461-025-0315

*You may also get an expedited hearing if you have a medical or dental problem that cannot wait.*

OAR 410-141-0265

## 8. WHAT IS A PRE-HEARING CONFERENCE?

A pre-hearing conference is an informal meeting with the DHS representative. It is an opportunity for you and the branch to attempt to resolve the case. The branch representative will set the date. The Administrative Law Judge (ALJ – the person who will conduct the hearing and make the decision), does not attend the informal conference. The informal conference is a good opportunity to exchange information, to simplify issues, and identify important documents that the ALJ should consider. Cases are often settled at the informal conference.

When you go to an informal conference, *remember that anything you say can be used against you in a hearing.* It may be wise to obtain legal advice before you go to an informal conference. Call the Public Benefits Hotline of Legal Aid and the Oregon Law Center, 1-800-520-5292.

Sometimes you can get your problem resolved just by asking for a hearing. This makes your worker pay more attention to your case since the agency must be prepared to justify their action to the ALJ. ***Use your right to a hearing.*** If your problem gets fixed, you can then withdraw your hearing request.

## 9. WHAT IF I NEED TO POSTPONE MY HEARING?

- The ALJ may grant the postponement if, for reasons beyond your control, you or your representative cannot attend
- The ALJ may also allow a postponement if both you and the branch representative agree to it

To ask for a postponement you must file a motion at least 7 days before the hearing date and send a copy of your motion to the branch hearing representative.

Send the original motion to the Office of Administrative Hearings. The address is:

Office of Administrative Hearings  
P.O. Box 14020  
Salem, OR 97309

The telephone number of the Office of Administrative Hearings is (503) 378-8224.

***NOTE:*** *A scheduled hearing is not postponed unless the ALJ grants the request.*

OAR 137-003-0630

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## 10. HOW DO I REPRESENT MYSELF?

While it often helps to have a representative go with you to a hearing, you may handle it yourself. Here are some tips to follow if you are going to present your own case:

### 1. Before the hearing

- a. A “**Pre-hearing packet:**” will be sent to you from the branch representative including documents and rules DHS will rely on at the hearing and a summary of what DHS will argue at the hearing. If you do not receive this packet before the hearing, call the branch representative for a copy. *If you still haven't received it, be sure to tell the ALJ that you did not receive it before the hearing. **Read your hearing notice and pre-hearing packet carefully.***
- b. Make a list of the things you want the ALJ to know about your case.
- c. Decide whether you need **witnesses or written papers** to help you prove anything your worker does not agree with. If you do need witnesses, arrange to have them at the hearing. It is *always* best if the witness can come and testify in person. If the witness can't come, ask them to write down what they would say in their own words and sign their statement. You may also have them sign their statement in front of a notary public, but it isn't required. Remember if the hearing is by phone your witness must be with you or call the telephone number that appears on your Notice of Hearing.
- d. If DHS or someone else has **documents** that you need for your hearing, you can ask them in writing to give you the

documents. If they refuse, you can ask the ALJ in writing to order them to give you the documents. The ALJ may send a subpoena requiring them to give you the documents.

- e. Send documents you wish to present to the ALJ and the branch representative **before the hearing**. This is especially important if your hearing will be by telephone.
- f. Most hearings are held by telephone, but you can ask for a face-to-face hearing. *A face-to-face hearing is always best when your case involves a disagreement about facts and credibility.* If the ALJ will have to decide what facts are true or who he or she believes, that can best be done at a face-to-face hearing. (In TANF cases, you do not have a right to a face-to-face hearing, but you can request it by writing directly to the ALJ at the Office of Administrative Appeals in Salem as soon as possible.) If you have a disability that makes it more difficult to present your case by a telephone hearing, you should state that in your request to the ALJ.

### 2. What Happens at the Hearing

- a. The Notice of Hearing will give you a phone number to call at the time of the hearing. Be sure to read the instructions carefully.
- b. First, the ALJ will explain to you the hearing process and your rights.
- c. Next the branch office representative will explain why the decision was made. The branch representative may have witnesses testify at the hearing.

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- d. After they are finished, you can ask them any questions you think are important. Take notes of anything other witnesses say because once they are finished talking it will be your turn to question them.
  - e. After the branch office representative is finished and you have asked your questions, it will be your turn to tell your side of the story and have your witnesses tell what they know of your side of the story.
  - f. In almost all cases, except Intentional Program Violation cases, you have the **burden of proof**. This means that you must show the ALJ that you qualify for the benefit or that your side of the story is correct.
  - g. **Keep calm** so you can explain things clearly to the ALJ.
  - h. You can ask the ALJ to help you bring out facts and information. This includes helping you to get medical proof (documentation) if you are unable to get it yourself or you've tried to obtain important documents and you have been unsuccessful. *It is best to ask the ALJ to help you with this well before the hearing so that you have the information you need by the time of the hearing.*
  - i. If you don't understand something, ask the ALJ to explain it.
  - j. Present facts and information about your case by (a) having your own witnesses testify, (b) giving written papers to the ALJ and branch representative before the hearing and (c) asking questions of the branch office witnesses. You can testify yourself, but it will be important also to have witnesses and papers to back you up, if possible.
  - k. Go over the list that you made before the hearing to be sure you have not forgotten anything. **Take your time. It is your hearing.**
  - l. **Remember** that the hearing decision will be based only on the evidence given at the hearing, so you must be sure to present all important information to the ALJ. If you couldn't get all the information in time for the hearing, ask the ALJ if you can send it to him or her within two weeks. **Be sure to send it as promised.** This is called "leaving the record open".
  - m. You will not get a decision at the end of the hearing.
3. After the Hearing
- a. The ALJ will make a decision and issue an order based upon the testimony and evidence given during the hearing.
  - b. You will be mailed a copy of the order.
  - c. The order will tell you whether the branch office acted correctly in applying the rules and regulations.
  - d. If you are right, the ALJ will order DHS or DSO to pay you the benefits wrongly denied or to take other action to correct their mistake. The branch must act on the order immediately.
  - e. How quickly you receive the order will depend on the benefits that are involved. For TANF and other benefits except food stamps, it must be mailed within 90 days from the date you requested the hearing.
  - f. For food stamps (other than Intentional Program Violation hearings), it must be

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mailed within 60 days of your request for a hearing.

- g. For expedited hearings, including Temporary Assistance to Domestic Violence Survivors (TA-DVS), a final order must be issued within 3 working days.
- h. For expedited food stamps, a final order shall be issued not less than the 9th working day after the hearing was requested.
- i. These time limits may be extended if you agree to it or if you request a postponement to get more evidence in the record.

OAR 461-025-0371  
OAR 461-025-0315  
OAR 461-025-0375

#### 4. To Appeal

- a. If the ALJ rules against you and you still disagree, you may want to request a “Reconsideration” or “Rehearing” of the final order.
- b. You must make this request in writing within 60 days from the date of the final order.
- c. You request the reconsideration or rehearing by writing a letter to the agency explaining why the decision is wrong. In some cases, the petition for Reconsideration/Rehearing must be sent to the ALJ. *Your final order will explain the proper procedure.* You may send in additional written evidence with your request for reconsideration or rehearing.
- d. Instead of requesting reconsideration, you may want to appeal the final order. This

OAR 137-003-0675

must be done in the Oregon Court of Appeals. It is a good idea to have an attorney. The appeal papers must be filed within 60 days of the date of the final order.

For more information, call the **Public Benefits Hotline (1-800-520-5292)** or your local Legal Aid office for possible advice or representation. Go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) for a directory of legal aid programs.

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# FILING A COMPLAINT (Grievance) WITH DHS

Oregon law (ORS 411.977) requires Department of Human Services (DHS) employees to treat clients "in a courteous, fair and dignified manner." You have a right to file a complaint whenever you have not been treated in this manner. Therefore, you should consider filing a complaint whenever *any* DHS employee offends your dignity in any way. For example, you should file a complaint if your worker:

- *calls you names or speaks rudely to you;*
- *gives you the "run around;"*
- *asks you to provide information not required by law;*
- *fails to return your calls;*
- *does not take the time to answer your questions;*
- *doesn't tell you about programs or benefits that could help you;*
- *intrudes on your private affairs;*
- *behaves dishonestly.*

You must file your complaint within sixty (60) of the event you are complaining about. It is best to file the complaint as soon as possible after the incident occurred.

If your benefits have been reduced or cut off, you should also ask for a hearing. There is more about this at the end of this flyer.

## 1. WHY SHOULD I FILE A COMPLAINT?

When you have been mistreated, filing a complaint is a way to *protest* that treatment and *demand action* from DHS supervisors. Even if you are not demanding a specific action, filing a complaint can be worthwhile because it lets your worker know that you know how to stand up for your rights.

You can also file a complaint to ask for a new worker, although by law you don't have to be given one. DHS may assign a new worker if the worker has made many mistakes or there is a serious personality conflict between you and your worker.

The purpose of filing complaints is to improve treatment of people who receive welfare or food stamps. The complaint you file is forwarded to the District Office and then to administration in Salem, as well as to Oregon's Family Services Review Commission. This helps to spot the "bad apples" in the welfare system and helps DHS improve the process for clients. So by filing a complaint, you're not just helping yourself, you're making the system better for everyone.

## 2. HOW DO I FILE A COMPLAINT?

Go to the reception area of your welfare office and get a "Client Complaint or Report of Discrimination Form" (DHS 0170). If you cannot find any complaint forms, ask the receptionist to give you one. Fill out the form and give it to the receptionist. *Ask for a date-stamped copy as a receipt.*

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Note that DHS uses the word “grievance” and “complaint” interchangeably; they are the same thing. *But, don’t be confused by the “Client Comment Form” (DHS 0171), which does not give you the same rights as the complaint form.*

You can also find the “Client Complaint or Report of Discrimination Form” on the internet. Go to [www.oregon.gov/DHS/admin/forms/index.shtml](http://www.oregon.gov/DHS/admin/forms/index.shtml). Click on “Find a DHS form.” Then enter 0170 as the form number and click “Search.”

DHS staff must explain the complaint review process to you and help you put your complaint in writing if you need help.

OAD 407-005-0105(4);  
OAD 407-005-0110(1)

### 3. WHAT RIGHTS DOES FILING A COMPLAINT GIVE ME?

*The supervisor must review your complaint and contact you within five working days from the time you hand in the complaint.*

OAD 407-005-0115(4)(a)

Sometimes supervisors fail to respond within the five day time limit. If this happens to you, call the Governor’s Advocacy Office at 1-800-442-5238.

**There are four available levels of review for DHS grievances:**

- First level manager (usually your case worker’s supervisor)
- Second level manager (usually the manager of the local DHS office)
- Third level manager (Service Delivery Area or Regional Program Manager)
- Governor’s Advocacy Office

#### At each stage of review:

- The office must contact you within five working days of that office’s receipt of your complaint
- Each office should offer you the opportunity to meet by phone or in person
- The office has 10 days to investigate your complaint. If they need an extension, they must notify you of the amount of time needed.

OAD 407-005-0115(4)(b)

- DHS must notify you of a proposed solution to your complaint.
- If you are not satisfied with the solution DHS proposes, SAY SO, *and request an appeal within 5 days of being notified of the proposed solution.* The office must immediately forward your complaint to the next stage of review.
- If you are satisfied with the solution DHS proposes, you may *request a written statement* that summarizes your complaint, accepts or denies your allegations, and states how the problem was resolved.

OAD 407-005-0115(4)(b)(C)

#### THE GOVERNOR’S ADVOCACY OFFICE

At any stage, you may choose to skip a level of levels of review and take your complaint straight to the Governor’s Advocacy Office (GAO).

You can complain directly to the GAO if you would rather not file your complaint with your branch office.

If you are not satisfied with how your complaint is being investigated and responded to (for example, you haven’t received a prompt

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response or the supervisor hasn't solved the problem), you should contact the GAO right away.

**Governor's Advocacy Office: 1-800-442-5238**

## **TIPS ON MEETING WITH DHS**

It is best to take someone with you when you meet with the managers, and to calmly and clearly explain the problem. Make some notes before the meeting and use them instead of relying on your memory alone. *If you have any proof of your claims, such as papers or names of witnesses, be sure to give that proof to the supervisor.* If you've been keeping a log of your dealings with DHS, this is the time to use it.

When you do not understand something, ask for an explanation. *You also have the right to see the laws and rules the agency relies on.* If you think they may be wrong, tell them you wish to get a second opinion. Call the Public Benefits Hotline (1-800-520-5292) or your local Legal Aid office. Go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) for a directory of legal aid programs.

If the manager agrees that you are right, ask what actions will be taken and how soon the problem will be corrected. Request that the manager put that statement *in writing*.

### **4. IS THERE A DIFFERENCE BETWEEN FILING A COMPLAINT AND ASKING FOR A HEARING?**

**Yes!** There is a big difference. You should request a hearing whenever you disagree with your worker's decision to deny, reduce or end your benefits. A hearing is something like a trial at which the Administrative Law Judge (ALJ) from Oregon's Office of Administrative Hearings makes a decision after hearing both

sides of the story. It often takes several weeks to get a hearing, and more delay until the "final order" is mailed by the ALJ.

If you ask for a hearing within 10 days of the date the notice was mailed to you, you can usually keep your benefits coming in the same amount until you get the hearing decision or "final order" in the mail. *Asking for a hearing will protect your benefits in case filing a complaint doesn't work.*

### **5. WHEN SHOULD I ASK FOR A HEARING INSTEAD OF FILING A COMPLAINT?**

You should ask for a hearing whenever your benefits are being reduced, denied or cut off. You should file a complaint when you feel you have been mistreated. If benefits have been denied, reduced or cut off AND you have been mistreated, then you may ask for a hearing AND file a complaint.

If you mistakenly file a complaint when a hearing request should have been filed, DHS has 2 working days to let you know that you need to file a hearing request.

OAR 407-005-0115(2)

### **6. WHAT IF FILING A COMPLAINT DOESN'T WORK FOR ME?**

When a complaint doesn't work for you, call the **Public Benefits Hotline (1-800-520-5292)** or your local Legal Aid office. Go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) for a directory of legal aid programs.

10/07

This pamphlet is for general educational use ONLY. It is not a substitute for individual legal advice. Consult an attorney for more information or advice. Please remember the law is always changing.

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## Domestic Violence 101

Domestic Violence is a pattern of controlling and coercive behaviors including physical, emotional, sexual, verbal, psychological, spiritual and economic abuse. Domestic violence is present in all cultures, ages, socio-economic classes, and communities of faith.

DHS recognizes the importance of training all staff on the dynamics of domestic violence. Whenever possible, DHS staff are to be trained by their local domestic violence service provider. In addition to training, domestic and sexual violence advocacy programs are the primary resources for shelter, developing safety plans, support groups, etc. DHS staff are encouraged to seek collaborative partnerships in order to address the needs of victims and survivors in their communities. To cover all the subjects identified it is estimated that the training will take at least 3-4 hours. The following basic components are recommended for any DHS sponsored training on domestic violence:

### 1. Types of Abuse/Continuum of Abuse

Emotional, Physical, Sexual, Verbal, Psychological, Spiritual, Economic  
Escalation of abuse over time

### 2. Warning Signs of Abusive Behavior:

- Manipulative Charm
- Isolation
- Jealousy
- Emotional Abuse
- Control

### 3. Addressing Myths

- Children who witness domestic violence grow up and become abusers or victim
- Alcohol and/or drugs cause domestic violence
- Domestic Violence is an “anger control” issue
- Stress/Poverty/Culture causes domestic violence
- Low self-esteem leads to becoming a perpetrator/victim of domestic violence
- Women “choose” abusers/go from one abuser to another
- The victim is responsible for the actions of the abuser

### 4. Dynamics of Domestic Violence

- Domestic violence is a choice
- Domestic violence is about power and control
- Domestic violence crosses all ages, socio-economic levels, cultures, religions, etc.

### 5. Barriers to Leaving an Abuser

- Fear/Danger
- Lack of Options/Poverty
- Pressure from family, friends, faith community
- Oppression
- Language

### 6. Ways to Support Survivors/Services Available/Coordination with other Service Providers (Law Enforcement, District Attorney’s Office, Medical Service Providers, etc.

### 7. Partnering with Domestic and Sexual Violence Advocacy Programs