



# Maintaining Safe and Trustworthy Services for People Endangered by Domestic Violence

## Part II: Confidentiality Policy Guidance

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New Mexico Coalition Against Domestic Violence

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This manual was created to provide helpful information for domestic violence service providers and those professionals who commonly interact with them. Nothing in this manual should be construed as legal advice. If you have any specific questions about any legal matter you should consult a licensed attorney.



## I. Introduction

### **Confidentiality Task Force**

The New Mexico Coalition Against Domestic Violence wishes to acknowledge and thank the members of the Confidentiality Task Force for their time, their commitment and their wisdom. The guidance and recommendations provided in Part II of this Manual is the final result of the process that these taskforce members participated in.

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## **Project Background**

In 2013 the New Mexico Coalition Against Domestic Violence (NMCADV) applied for and received a STOP Formula Grant for Priority 13, Best Practices and Training on Confidentiality. The stated purpose for this project was to address the lack of common understanding of confidentiality among advocates, law enforcement officers and prosecutors. To that end, the NMCADV convened a group of experts and stakeholders from the following disciplines to form a Confidentiality Taskforce: domestic violence, child and medical advocacy, law enforcement, funders, civil and criminal law, and the judiciary. In choosing the makeup of the taskforce, consideration was given to factors such as: diversity of professions; familiarity or involvement with confidentiality issues, and geographic representation.

The taskforce met three times in person; on December 10, 2013, March 6th, and May 7th, 2014. Their job was to review existing laws and practices relating to confidentiality, and to provide clarification and best practice recommendations. With the help of a group facilitator the taskforce was guided through a variety of processes to arrive at these recommendations, including: multidisciplinary small group discussions of common



confidentiality scenarios, panel presentations by experts, legal questions and answers, and large group discussions identifying missing information and next steps. The NMCADV wishes to thank taskforce members for their time, effort and commitment to this project.

## **Need for the Project**

Currently, even among very experienced, well-trained advocates and police, there is no uniform understanding of domestic violence program confidentiality. For example, law enforcement often do not understand why a domestic violence program is not forthcoming with information which the law enforcement officer reasonably believes can be used to help the victim or is otherwise needed to serve a legal mandate. Similarly, advocates do not understand why law enforcement remains seemingly unaware of the advocate's special, confidential relationship to a domestic violence victim and the laws that advocates believe clearly restrict the extent and type of information that can be revealed.

In order to serve victims more safely and effectively, relationships between domestic violence advocates and law enforcement, need to be strengthened and a common understanding of respective roles, approaches and goals developed. However, a striking lack of clarity about laws governing confidentiality, arguably one of the most important aspects of domestic violence intervention, contributes to an ongoing and often problematic divide between the groups. The goal of the project was to lessen this divide.

## **Lessons Learned from the Process**

As suspected, we learned that there is indeed a lack of understanding amongst well-meaning professionals as to confidentiality obligations; where they come from, whom they apply to, and whom they don't. This lack of understanding too often results in conflict between the same well-meaning professionals.

We learned three more very important lessons: 1) confidentiality issues are not limited solely to domestic violence advocates and police, but extend to all of the professional communities that interact closely with domestic violence agencies such as emergency medical, child welfare, and courts; 2) the importance of communication and relationship building cannot be overstated – for the purpose of preventing conflicts from arising at all (by designing policies and procedures cooperatively or by discussing differing agency policies “supervisor to supervisor”), and/or to resolve conflicts amicably when they do arise; and finally 3) we should trust in each other more; while advocates, funders, police officers, CYFD workers, lawyers and judges each have very different roles and

responsibilities- most take their jobs seriously and want to perform them to the best of their ability.

One unanticipated but welcome outcome of this project was the relationships built between taskforce members. Participants felt that this model of collaborative relationships was very effective and could act as a model for individual communities going forward.

**Note:** This document is generated with a strong adherence to state and federal confidentiality laws. That being said, the taskforce addressed the reality and limitations of a rigid and hard lined application of those laws. What legally may appear as a clear issue or guidance from confidentiality laws can quickly become muddled on a practical level. This document attempts to offer both a clear representation of the law and support and guidance for it's ever complicated practical application.

## II. Confidentiality: What It Is And Why It Is Important

### **Privacy, Privilege and Confidentiality: Some Helpful Definitions**

Though the concepts of privacy, confidentiality and privilege are inter-related, they differ in important ways. *Privacy* refers to a domestic violence victim/survivor's right to control his or her own personal information. *Privilege* refers to the right to prevent the disclosure of personal information that was shared in confidence. The New Mexico privilege applying to domestic violence advocates is called the Victim Counselor Confidentiality Act (NMSA sections 31-25-2 through 6, *for discussion see Manual Part I*). *Confidentiality* on the other hand, typically refers to rules prohibiting disclosure of a victim/survivor's personal information. Confidentiality obligations come from many sources including: state and federal law, regulations, grant conditions, agency policies, and/or codes of ethics. Regardless of the source of the obligation or duty, the effect of these provisions is to limit or totally prohibit disclosure by almost all community-based domestic violence victim service providers without the informed, written, time-limited release of the victim/survivor.

Alicia Aiken, Executive Director of The Confidentiality Institute explains the difference between these concepts this way: Privacy is "I decide who knows my information"; Confidentiality is "You commit to protect my information"; and Privilege is "They can't make you share my information."

### **Why is Confidentiality Important?**

#### **Physical Safety**

Not only is confidentiality a duty imposed on domestic violence advocates by law, policy and ethics; it is also critical to a victim/survivor's safety and ability to seek justice. The physical safety of survivors is most at risk when they leave their abuser. Peer-reviewed research has shown that the risk of homicide by a controlling partner increases nine-fold upon separation.<sup>1</sup> Disclosing the identity and location of a survivor who has sought refuge in a domestic violence shelter or program can have potentially fatal consequences.

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<sup>1</sup> Campbell, J., Webster, D., & Laughon, K. (2002). The American Journal of Public Health. *American Journal of Public Health and the Nations Health*, 1-22. Retrieved August 28, 2014, from [http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447915/#\\_ffn\\_sectitle](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447915/#_ffn_sectitle)

### **Emotional Safety**

Survivors who reach out to domestic violence programs have one thing in common – they have had their ability to keep themselves and/or their family’s safe overwhelmed. They may have suffered one incident or a lifetime of such incidents, and many have very little trust left to give advocates, programs, or institutions. Having people within our network of institutions who they can reach out to in total confidence is crucial. The protected advocate/survivor relationship can be the source of establishing physical and emotional safety; which leads to healing and accessing resources, such as law enforcement, the courts, and social services.

“We know that for a person who is living with ongoing threats and intimidation, the experience of being treated with respect and feeling free to make choices without fear of judgment or retaliation, can be healing in itself. We also know that interactions with advocates can provide an opportunity for survivors to feel respected and valued, experience other people as trustworthy and safe, and to regain a sense of connection to themselves and other people.”<sup>2</sup>

### **Empowerment**

The overall goal of domestic violence advocacy is to empower survivors to make their own decisions regarding their lives and the lives of their children. Empowerment requires that the survivor, not the advocate trying to help him or her, have the power to decide what information to share, to whom and for what purpose; and confidentiality policies embody this principle.

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2 National Center on Domestic Violence, Trauma, and Mental Health, “Core Curriculum on Trauma-Informed Domestic Violence Services”, 2013

### III. Confidentiality Guidance for Domestic Violence Agencies

#### **Confidentiality and Record Keeping Policies in General**

For the reasons spelled out in the previous section it is critical that all agencies and programs providing services to domestic violence survivors create a set of comprehensive confidentiality policies, procedures and forms. In addition to these survivor-centered reasons, confidentiality and record keeping policies are also necessary for program administration purposes. Programs need client related information for a variety of purposes such as: determining whether a client is eligible for services and if so what his or her needs are; funder audits, billing; and sometimes even for protecting themselves in the event of a lawsuit.

The overall goal is to develop confidentiality and record keeping policies that limit third party access to confidential client data yet provide program staff and directors the information they need. To do this, confidentiality experts recommend that programs evaluate which information and records are necessary to operate the program and to best serve survivors. For example, domestic violence program staff should maintain enough information in a client's file to verify dates and activities of contact/services, as well as referrals.<sup>3</sup> Documents and information that are not absolutely necessary for either the survivor or program administration should not be collected.

Best practice requires staff to discuss the program's confidentiality policies with the survivor as well as to provide them with written information about those policies as well as their rights and responsibilities.<sup>4</sup> (For link to Sample Client Notification of Rights/Confidentiality form, *see V. NNEDV Model Forms, Policies and Templates* )

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<sup>3</sup> CONFIDENTIALITY ~ AN ADVOCATE'S GUIDE, Julie Kunce Field, Deb Goelman, Barbara Hart, Rebekah Lee, Sandra Murphy, Kim Tolhurst and Roberta Valente, Battered Women's Justice Project, Minneapolis, MN: revised September 2007.

<sup>4</sup> Michigan Coalition Against Domestic Violence, Confidentiality Policy Considerations and Recommendations: A Resource Manual for Michigan Domestic Violence and Sexual Assault Programs

## **Client Files**

### **Case Notes**

Many domestic violence programs keep case notes or client information logs in client files. These notes are created by shelter staff, advocates or counselors for the purpose of documenting interactions with survivors, conducting therapeutic assessments and/or gathering information regarding demographics and services provided to meet various funder requirements. Since the unintended consequences of a disclosure of a survivor's private, confidential information can be quite dramatic, best practice requires that case notes be as limited as possible while still allowing the advocate to work effectively with the client and help facilitate the coordination of program services.<sup>5</sup>

Case notes that include unnecessarily detailed information or word for word accounts of what a client said may be subpoenaed and used against a survivor in a civil, criminal or administrative proceeding. Therefore, the best guidance to domestic violence advocates writing case notes is: (1) focus on what services you provided (what you did), rather than what the client said (e.g. "referred client to TANF" vs. "client stated..."); and (2) don't include your own personal opinions or conclusions.

The idea is to strike the right balance between information that needs to be kept to serve survivors and information that could harm them. Due to the potential negative consequences of unnecessarily collecting and retaining narrative information, directors of domestic violence programs are urged to develop policies and procedures regarding how case notes are captured and to train their staff on this important issue.

### **Records Kept for Program Purposes**

In addition to case notes, domestic violence programs may keep administrative forms in a client's file including: Third party Limited Release Forms, Emergency (Contact) Forms, Waivers of Liability for Lost or Stolen Property and a Client's Acknowledgment of Receipt of Program Policies. Programs providing shelter services have a need to keep additional administrative records (policies, procedures and documentation) as a result of the housing services they provide. Best practice is to keep shelter records in a separate file<sup>6</sup>, and here again, to only keep the information that is necessary for program purposes. Information about a client's interactions with other shelter residents or compliance with shelter rules should be kept if at all, in a separate shelter log. (For link to Sample Release of Information and Client Notice of Rights Form, see *V. NNEDV Model Forms, Policies and Templates.*)

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<sup>5</sup> Id.

<sup>6</sup> Field, Julie, BWJP 2007, supra.

**Note:** Grant contracts may require programs to keep more information in a client's file, or for a longer period of time than is necessary to serve the needs of the survivor, as long as the requirements do not violate VAWA and similar confidentiality laws. (For discussion of Federal and State confidentiality laws, *see Part I of this Manual*).

**Note:** Because it is important for programs to understand which records and information the funding contract requires them to keep, it may be helpful for the program director to ask the funder when the contract arrives, what is the minimum information they require to be kept in a client file.

### **Confidential Information Stored at the Request of Clients**

If a domestic violence program's policies permit staff to store personally identifying documents for clients such as social security cards, drivers licenses or passports, best practice requires that these items be stored in a secure location that the client can access, not in the client's case file. In this situation, these items must be made available to clients when they request them and returned to them when they leave the program.<sup>7</sup>

### **Access to Client Files**

**Survivors** who are receiving services at a domestic violence agency have the right to inspect and copy their own files. Agency policies should allow for a client to access their files under reasonable circumstances and should specify: the hours during which the file will be available, which program staff need to be present, the file review process and who pays the copy costs.<sup>8</sup> Before any file contents are shared with a client agencies should 1) get a signed release, and 2) inform the client of the possible risks of sharing the file with a friend or relative. For example, if New Mexico's privilege law did not cover the friend or relative, just their viewing the file could void the privilege and result in the file's

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<sup>7</sup> Confidentiality Best Practices Manual- Resource Manual for District of Columbia Domestic Violence Programs, 2d edition Revised and Updated: January 2011, Edited by Julie Kunce Field, Esq

<sup>8</sup> Michigan Coalition Against Domestic Violence, Confidentiality Policy Considerations and Recommendations: A Resource Manual for Michigan Domestic Violence and Sexual Assault Programs

disclosure in a court proceeding.<sup>9</sup> (For discussion regarding New Mexico privilege, *see Part I of this Manual*).

Domestic violence agency policies should address which **staff members** can have access to client files. Ordinarily this should be restricted to staff members working directly with the client, and supervisors. Policies should also include what client information volunteers and student interns have access to.<sup>10</sup>

Best practice dictates that **board members** not have any access to client files or agency records that contain personally identifying information unless the client has signed a release of information authorizing the disclosure or, if for example, the client has sued the shelter and the executive director and the agency attorney have determined that the disclosure is necessary for the agency to defend itself. Board members should also be required to sign confidentiality agreements.<sup>11</sup>

Confidentiality rules allow **funders and researchers** access only to non-identifying, aggregate statistical information regarding clients. Best practice requires a researcher to sign a confidentiality agreement as well.<sup>12</sup> (For Model Visitor Confidentiality Agreement, *see Appendix E*) Below is an illustration of the difference between client level data, which is extremely easy to identify, and aggregate data. **Note:** Aggregate totals may also be identifying if only one person or family fits a category.

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9 Id.

10 Id.

<sup>11</sup> Field, Julie, BWJP 2007, *supra*

<sup>12</sup> Id



**FIGURE 1: CLIENT VS. AGGREGATE LEVEL REPORTING**

**Client Level:** Individual entries or rows in a database

Adult Age	Adult Race	Child	1	Child	1
36	Asian	2		Asian	

**Aggregate Totals for Age:** No details about individual person or family

0-18	18-25	26-55	>56
24	13	10	5

**Funder Audits**

VAWA confidentiality provisions prohibit grantees and sub-grantees from disclosing “individual client information” or “personally identifying information” in the course of funder audits whether they are Federal, State, tribal or territorial; unless the client has signed a written, informed, time-limited release of information or the disclosure is mandated by statute or court order. Examples of individual and/or personally identifying information include the obvious, such as first and last name; physical address; contact information such as email, mailing, telephone or fax number; and social security, driver’s license, passport or student id numbers. However, potentially identifying information also may include: date of birth, racial or ethnic background, and number of children, which could potentially identify someone within your unique community.

Funders, in the course of conducting program audits, are required to test for eligibility of services and monitor for fraud, waste and abuse without seeing a client’s personal information. To be able to strike this balance, funders may contractually require that domestic violence service providers submit to a random review of client files during a site visit as long as all personally identifying or potentially identifying information has been redacted from the files prior to the visit. They may also explore alternative methods of auditing sub grantees, which comply with VAWA confidentiality requirements.

Prior to a case review by funder or other outside evaluator, domestic violence program staff should review client files chosen for audit thoroughly (including narrative notes) and black out all names, locations, events and potentially identifying information.

## Document Retention

Domestic violence agencies need to have policies in place for the periodic destruction of client records. (For link to Sample Document Retention Policy, *see V. NNEDV Model Forms, Policies and Templates*) To determine how long client data should be retained, programs should factor in funder requirements, liability protection and continuity of care.<sup>13</sup>

**Important:** If your agency has either received a subpoena or been threatened with a subpoena for information, do not destroy the client file/records requested.

Once a client is no longer receiving services at your agency experts recommend the following:

1. Closing the file;
2. Keeping only information that is essential for funders or liability protection (such as exit and release forms);
3. Keeping the closed file separate from current files in a locked file cabinet until it is destroyed;
4. Prior to their leaving, advising the client of when the file will be destroyed and offering her/his records before they are destroyed.<sup>14</sup>

## Internal Communications About Clients

A client's safety could be seriously jeopardized if information about a client or a client's file is discussed in a public rather than a private space within a domestic violence agency. Therefore record keeping and confidentiality policies should also address internal communications between staff members about clients. Policies should warn staff to refrain from discussing client information in public,<sup>15</sup> and limit communications to verbal discussions of essential information regarding a client with the staff person who is responsible for working with that particular client. If verbal communication is not possible, policies should state that communications between staff members will be by the

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<sup>13</sup> Confidentiality Best Practices Manual- Resource Manual for District of Columbia Domestic Violence Programs, 2d edition Revised and Updated: January 2011, Edited by Julie Kunce Field, Esq.

<sup>14</sup> Id

<sup>15</sup> Michigan Coalition Against Domestic Violence, Confidentiality Policy Considerations and Recommendations: A Resource Manual for Michigan Domestic Violence and Sexual Assault Programs

method that is most protective of client confidentiality and privacy and meets the program purpose.<sup>16</sup>

## Electronic Records and Databases

Although we probably don't think about it often, computer technology (i.e. email, databases and electronic records) creates significant confidentiality challenges for domestic violence programs, such as: Who has access to the data? What data should be stored? What if an electronic record or email conversation containing personally identifying client information is subpoenaed or ordered to be disclosed for a court case? (For Guidance Regarding Court Orders, *see Section IV*; For Template Policy on Securing Paper and Electronic Information for Co-located Domestic Violence Program and Partners, *see V. NNEDV Model Forms, Policies and Templates*.) Backups and computer cloud technology mean that electronic data lives forever; records can be discovered even if you think you deleted them.

Therefore, confidentiality and record keeping policies need to include the maintenance of electronic (computerized) records regarding program clients. Policies should ensure that 1) all client-related information stored on the computer is password protected, 2) the data is only accessible to specific staff members, and 3) computers that contain personally identifying client information are not connected to the Internet.<sup>17</sup> Policies should also protect confidential information when using email, for example: no shared email accounts or access codes, no discussion of clients' cases by staff members and no communicating with clients about confidential matters via email.<sup>18</sup>

Before drafting policies in regards to databases, the National Network to End Domestic Violence' Safety Net Project in their Tip Sheet: Databases, Confidentiality and Third Parties (*see V. NNEDV Model Forms, Policies and Templates*), recommends that programs ask themselves the following set of questions:

Why?

- Why do we need to create and maintain a database?

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16 Confidentiality Best Practices Manual- Resource Manual for District of Columbia Domestic Violence Programs, 2d edition Revised and Updated: January 2011, Edited by Julie Kunce Field, Esq

17 Michigan Coalition Against Domestic Violence, Confidentiality Policy Considerations and Recommendations: A Resource Manual for Michigan Domestic Violence and Sexual Assault Programs

18 Id.

- What are the specific purposes and limits of data collection and data retention in light of confidentiality provisions?

What?

- What information about survivors will be collected and maintained in the database?
- Will the database include personally identifying information about survivors?
- Will this information meet the goals of why you're collecting this data? Is all the information you're collecting necessary?
- Note: It is best practice to only collect and maintain minimal amount of identifying information that is necessary to provide services.

Who?

- Who will maintain the database? Is that person an employee, a contractor of our program, or an external third party?
- What confidentiality agreements might be necessary?
- Who will have access to the database? Will access levels exist so access to the data is limited?

Where?

- Where will the database physically reside? On a computer or server within your program or on a third party server?

When?

- How long will records be kept? How often will the database be purged?

## **Releases of Information**

Part I of this Manual includes a thorough discussion regarding Release of Information requirements and exceptions under VAWA confidentiality provisions. For link to a Client Limited Release of Information Template, see *V. NNEDV Model Forms, Policies and Templates*. More information about releases can be found in, [Survivor Confidentiality and Privacy: Releases and Waivers At-A-Glance](#), *V. NNEDV Model Forms, Policies and Templates*.

## **Responding to Subpoenas**

A subpoena is a formal request for information for a civil or criminal court case and can be a request for either written documents and records, or oral testimony. Domestic violence agencies may receive a subpoena from a district or defense attorney, or a child protective services employee or attorney. There are two types of subpoenas: a subpoena of the person and a subpoena duces tecum. The first type of subpoena ordinarily requests that a specific person show up at a court hearing and testify. The second type requests a custodian of records to turn over specific documents or records. Subpoenas directed at domestic violence programs and their staff usually request confidential information regarding clients and so present challenges for programs whose duty it is to protect that information.

A subpoena does not “trump” a client’s right to control his/her own information. Best practice still requires that no information be turned over without the informed, written, reasonably time-limited consent of the client.<sup>19</sup> While subpoenas should be dealt with in a timely manner, disclosure of a survivor’s private information should not be automatic or immediate. Having said that, the service of a subpoena on a domestic violence program or an advocate is a very serious matter and should not be ignored; a court can find a person who fails to obey a subpoena in contempt of court.

### **Guidance for Domestic Violence Agencies Responding to Subpoenas**

- Ideally, domestic violence programs should have a written subpoena response policy in place, and all program staff should be trained on the content of the policy.
- Programs should designate a custodian of records who will ultimately be responsible for responding to record subpoenas; usually this is the Executive, Program Director or someone in a position of authority.
- When served with a subpoena, domestic violence programs are strongly advised to consult with an attorney as quickly as possible. If the program does not have access to an attorney, there is now a New Mexico Pro Bono Subpoena Defense Project, which will match your program with a trained pro bono attorney who will defend the subpoena. (For information about this program, see Appendix D).
- If possible, domestic violence program staff should notify the survivor whose private information is being sought, of the subpoena to see whether they object to the disclosure. If, after discussing all the possible consequences, the survivor does not

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19 Confidentiality in the Digital Age, October 2013 Training., NNEDV Safety Net Project & The Confidentiality Institute.

object, records may only be released after obtaining a VAWA-compliant signed release of information form. (For link to Sample Release of Information, see *V. NNEDV Model Forms, Policies and Templates*)

- If the survivor objects or cannot be found, domestic violence programs through their attorney should make 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. Sometimes merely contacting the party who issued the subpoena, making them aware of state and federal privilege and confidentiality laws, and asking them to rescind the subpoena will be enough. (For Sample Motion to Quash Subpoena, see Appendix C)
- Once a subpoena has been served, do not destroy documents that may be subject to it.
- Some domestic violence programs have a policy which provides that they will automatically challenge all subpoenas, regardless of who issued them, what information/testimony is being sought, or whether the survivor objects to the disclosure or not. Programs should review such policies keeping in mind that the goal of VAWA and other confidentiality related law is to put survivors in control of their own information.

## **Responding to Emergencies**

A wide range of situations can arise for programs providing services to victims of domestic violence, dating violence, sexual assault, or stalking. Given the complex and critical safety issues faced by victims, programs should have policies to address victim safety and confidentiality in unusual or emergency circumstances. Examples of special situations that might arise include: medical and other emergencies; instances where a victim/client (or the victim’s child) commits a crime while accessing or using services; and, situations where a victim brings civil or criminal claims against another client or the agency. Programs/agencies should practice best confidentiality and safety practices in each special circumstance that arises. <sup>20</sup> (For Guidance in Medical Emergencies, see *Section IV*; for link to Confidentiality Considerations When Responding to Emergency Situations in general, see *V. NNEDV Model Forms, Policies and Templates*)

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20 Victim Confidentiality Considerations For Domestic Violence Programs When Responding to Rare or Emergency Situations, NNEDV Safety Net Project

## IV. Confidentiality Guidance When Working with Community Partners

### **Partnerships, Co-located Programs, and Community Collaborations**

In the past ten years or so there has been an increase in the number and popularity of non-stand-alone domestic violence programs. These can take the form of partnerships such as regional or county -wide task forces, co-located programs such as Family Justice Centers, non-profit advocates housed in court police or prosecutor's offices, or and/or community collaborations such as Coordinated Community Response (CCR) Teams. Partners include law enforcement officers, domestic violence advocates, district attorneys, probation and parole officers, and health professionals.

One of the most well known of these models is the Family Justice Center. While there are benefits of community partnerships such as Family Justice Centers - coordination of community services, enhancement of services to survivors and their children, cross education of service providers, increased sharing of resources, and the identification of gaps in services - they also present major confidentiality related challenges. These challenges are a result of differing purposes and goals of member agencies, varying perspectives and attitudes of individuals and most importantly the vastly differing roles and legal obligations of each partner. For example, as a result of state and federal laws, domestic violence advocates have a much greater legal duty to maintain confidentiality and limit information sharing than the police officer or prosecutor sitting next to them at a CCR meeting. (For discussion regarding Federal and State Confidentiality laws, *see Part I of this Manual*) It is critical that all community partners be aware not only of their own obligations, but the obligations of their team members as well.

These differences in confidentiality duties continue to exist regardless of whether the partnership or collaboration has entered into an agreement or Memorandum of Understanding (MOU). (For links to sample forms regarding Partnerships, Co-located programs and Community collaborations, *see V. NNEDV Model Forms, Policies and Templates*).

**Important:** Even with a partnership agreement, domestic violence advocates cannot share personally identifying information about survivors with the rest of team/partnership without the written consent of the survivor. (For definition of personally identifying information, *see Part I of this Manual*). Without a release signed by the client, the only information that can be shared is general trends, hypothetical cases or aggregate data totals. This means that you can discuss general cases, but not on any level that would identify individual cases or people.

In the Battered Women's Justice Center's publication, Advocacy Challenges in a CCR: Protecting Confidentiality While Promoting a Coordinated Response, the author stresses that "Any collaboration agreement, especially one that envisions some kind of space-sharing arrangement or multi-disciplinary project, must establish clearly the independence of the domestic violence program and any participating advocate. There must be no question that an advocate who shares space at the police station does not report to the shift commander regarding her work performance; there must be no question that other partners, such as a prosecutor's office, have no oversight of the domestic violence program or its staff or any access to its records." (For discussion of other challenges such as space sharing and case reviews, see Advocacy Challenges in a CCR: Protecting Confidentiality While Promoting a Coordinated Response, Sandra Tibbetts Murphy, January 2011.)

### **Importance of Relationships and Understanding Each Others Roles and Responsibilities**

Domestic violence survivors do not live in a vacuum and neither do the programs that serve them. Both commonly interact with other individuals and agencies such as emergency medical personnel, doctors and hospitals; police officers, lawyers and judges, as well as child protective service workers. There are certain interactions between domestic violence agency staff and their community partners that often present particular challenges to everyone involved. Five such common confidentiality related scenarios, the challenges they present and guidance recommendations for each, are set out below: *Working with Law Enforcement, Working with Child Welfare Advocates and Working with Emergency Medical Responders.*

Overall, the two most important pieces of advice for reducing conflict and achieving good results in these situations and many others is that 1) relationships between individuals and agencies are critical as is 2) an understanding of each other's roles and responsibilities and how they differ. In the situation where a police officer needs to serve an arrest or search warrant on someone they believe to be in shelter, for example, a preexisting relationship between the Police Chief and the Shelter Director and an understanding of each other's roles and responsibilities could avoid an advocate being threatened with arrest and instead result in a collaborative warrant policy and procedure between agencies.

However, as many in the field know, building relationships and understanding another's roles and responsibilities is easier said than done. Both require a willingness on everyone's part to engage, to work together even if there is no common purpose, to listen, and to learn. Although this recommendation involves patience and hard work, and no



doubt, domestic violence agency staff and their community partners are very busy people, the results will be worth it. (For Sample Letter from Executive Director of Domestic Violence Agency to Police Chief Requesting Meeting, *see Appendix F*).

## **Working with Law Enforcement**

### **Scenario 1- Service of An Arrest Warrant**

A police officer arrives at a domestic violence shelter at midnight and tells the advocate (who is the only employee on duty and has only had the job for a week) that he is there to serve an arrest warrant on a shelter resident and that he knows that the client is there because he dropped her off there. The advocate does not want to say “I can neither confirm or deny...” because she knows that the client is there and that the officer knows that ... she is confused and scared and is not sure what she is allowed to do. She blocks the entrance and does not allow the officer inside. The officer says that if she doesn’t open the door he will arrest her for obstruction of justice.

### ***Understanding Perspectives and Clarifying Duties of Each Partner***

A police officer has many duties including: providing public safety services to crime victims and community members by responding to calls for service, conducting criminal and traffic investigations, preparing reports, testifying in court, and responding to emergencies and disasters. Most importantly though an officer’s job is to protect life and property through the enforcement of laws and regulations by arresting persons they have probable cause to believe have committed a crime.<sup>21</sup> In this scenario the obligation of the police officer is to serve the arrest warrant and make the arrest.

Contrast this to the role of a domestic violence advocate, which is to provide safety and support to victims/survivors of domestic violence and their children by: offering them confidential living arrangements, information, emotional support, help finding resources,

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21 Law Enforcement Code of Ethics: As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice. I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

safety planning, filling out paperwork and sometimes going to court, public benefits offices or hospitals. In this scenario the obligation of the advocate is to maintain confidentiality.

### ***Areas of Conflict that Can Strain Relationships***

Without predetermined policies, the situation depicted in Scenario 1 can cause frustration and conflict for both domestic violence agency staff as well as law enforcement; especially when it occurs in the middle of the night when supervisors are often unavailable. When confronted with these situations it may be helpful to remember that if law enforcement comes to a domestic violence shelter to serve a warrant and if shelter personnel refuse to allow them in, each is doing the job that he or she believes is required of them.

One area of conflict that can often strain the relationship between even well meaning advocates and police officers is the differing confidentiality duties of each. As is discussed in depth in Part I of this Manual, as a result of state and federal laws, advocates have very strict and specific duties regarding confidentiality that ***do not apply*** to police officers. To protect the safety of the clients they serve, domestic violence programs create policies and procedures around confidentiality (e.g. neither confirming or denying the fact that someone is in shelter) and record keeping that can, as in the scenario above, lead to conflict.

The way in which advocates work with domestic violence survivors can also strain their relationships with law enforcement. Because of the power and control dynamics in abusive relationships, and client self-determination, domestic violence advocates do not tell survivors what to do and cannot force them to do anything. Instead they offer victims/survivors information about the different options available to them and support their decision making, even if they do not agree. Police officers on the other hand tend to be task oriented, they have a job to do, such as serve an arrest warrant on someone, and very little time to do it in.

### ***Shared Goals***

The shared goals of the advocate and the police officer are that both have jobs to do in the way that best protects the life and health of the survivor

### ***Guidance***

A **search warrant** is a written order signed by a judge, which gives law enforcement the authority to search a specific place, person or item for evidence. A search must be limited

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to locating the items/person(s) in the warrant. General requirements for a valid search warrant include:

- Must specifically describe the thing or person.
- Must be based on probable cause that the object or person will be found in a specific place.
- Must specify the correct address and describe the location of the place to be searched.
- Must be properly dated and signed by judge who has read the affidavit and determined that probable cause exists to issue warrant.
- Law enforcement must announce their authority to search and the purpose of the search unless exigent circumstances exist.
- Law enforcement must give a copy of the search warrants and affidavits to occupant.

If law enforcement officers arrive at a domestic violence program with a **search warrant**, staff should:

- ✓ Request ID from the officers and record their name and agency.
- ✓ Ask to see the warrant. Note who or what it pertains to, and if possible make a copy.
- ✓ Regardless of whether the person is in shelter, ask if it's possible to surrender the item or person voluntarily, in order to avoid disruption of other clients in shelter and maintain their confidentiality.
- ✓ Without confirming or denying the presence of the person or item, request some time to notify a supervisor/Executive Director prior to entry.
- ✓ Follow your program's notification procedure.

An **arrest warrant** is an order, which gives law enforcement the authority to arrest a specific person for committing a criminal offense. Prior to serving an arrest warrant within a domestic violence shelter, New Mexico law requires law enforcement to get a valid search warrant; unless exigent circumstances exist necessitating immediate entry. [New Mexico Statutes Annotated Section 30-22-2.1; for discussion regarding this statute, *see Part I of this Manual*]

If law enforcement officers arrive at a domestic violence program to serve an **arrest warrant**, staff should:

- ✓ Request ID from the officers and record their name and agency.

- ✓ If possible, speak with the officer outside or away from the residential area of the shelter.
- ✓ Ask to see the warrant and inform the officer that you don't allow entry into the shelter without a search warrant. Neither confirm nor deny the presence of the person in your shelter.
- ✓ Share the search warrant requirement statute with the officer. NMSA Section 30-22-2.1 Prior to serving an arrest warrant within a domestic violence shelter, New Mexico law requires law enforcement to get a valid search warrant; unless exigent circumstances exist necessitating immediate entry.
- ✓ Contact a supervisor/Executive Director as soon as possible.
- ✓ If the subject of the warrant is a client, discuss the matter with him/her privately. Give him/her the option to surrender voluntarily, but allow him/her to choose. If the client refuses to surrender, law enforcement will have to obtain a search warrant. Ordinarily, law enforcement officers will get a search warrant in situations involving egregious crimes.

Best practices for domestic violence programs and law enforcement include developing and communicating in advance, interagency practices and policies that encourage de-escalation of emotion and problem solving rather than confrontation and threats of arrest, such as:

- ✓ Maintaining the confidentiality of the program or client's location.
- ✓ Providing the program, through a designated staff member, with a warning prior to the execution of any warrant.
- ✓ Request that warrants be executed during regular, daytime business hours and served in the administrative areas (rather than the shelter) of the program.
- ✓ Giving program staff an opportunity prior to execution of a warrant to surrender the person or things sought.
- ✓ Allowing the program's legal counsel to be present during any search.
- ✓ Addressing if, when, and how any warrantless arrests or searches will be accomplished.

### **Scenario 2- Missing Person Reports**

A law enforcement officer calls to follow up on a missing person report regarding a woman and her child that they believe are in your shelter. The report was made by the woman's husband. Law enforcement is afraid the child may be in danger and ask you whether or not the woman and her child are at your program? Neither the woman nor the child is a client of your program.

### ***Understanding Perspectives and Clarifying Duties of Each Partner***

Domestic violence program staffs are told that because of confidentiality laws and safety concerns they may neither confirm nor deny the presence of anyone who has or may be receiving services from their program.

Law enforcement's job pursuant to New Mexico law is to follow up on the report, and to check on the safety and welfare of those involved. [NMSA section 29-15-7]

Current New Mexico law requires police officers to do the following within two hours of receiving a missing person report:

1. Start an appropriate investigation to determine the present location of the missing person and to determine whether the missing person is an endangered person;
2. Provide to the clearinghouse all information the law enforcement agency has relating to an investigation regarding or the location or identification of a missing person;
3. Enter the name of the missing person into the clearinghouse and the national criminal information center missing person file; and
4. If the missing person is determined to be an endangered person, notify the Department of Public Safety in accordance with procedures prescribed by the department. [NMSA section 29-15-7 A]

New Mexico law also currently requires that when police have gotten a written or oral request by an immediate family member, they 1) immediately request information concerning the missing person from the clearinghouse that may aid the family member in the identification or location of the missing person; and 2) they report to the family member the results of the inquiry to the clearinghouse within seven days after the request is received. [NMSA section 29-15-5]

### ***Areas of Conflict that Can Strain Relationships***

Confidentiality challenges commonly arise when law enforcement are responding to or are investigating missing person reports about individuals (adults and/or children) they believe may be residing in domestic violence shelters and domestic violence staff do not give them the information they are seeking.

### ***Shared Goals***

The shared goals of the advocate and the police officer are that both have jobs to do in the way that best protects the life and health of the survivor.

### **Guidance**

When law enforcement contacts domestic violence shelters in the course of investigating a missing persons report, agency employees should:

- ✓ Request ID from the officer and record their name.
- ✓ Note the name of the person the officer is looking for.
- ✓ Tell the officer that you can neither confirm nor deny the presence of anyone who has or may be receiving services, but that if they are receiving services, you will let them know that the officer wants to speak with them. Take the officer's business card and request that they not disclose the victim/survivor's suspected location in their report.
- ✓ If the person the officer is looking for is a client: notify him/her of the missing person investigation; discuss options with them including contacting the investigating officer, or contacting another law enforcement agency in another jurisdiction, and/or taking no action. Let him/her decide what to do.

General best practice recommendations in this scenario include: 1) shelters and local law enforcement engaging in routine joint meetings, training, and protocol development so that they understand each other's position and perspective; 2) shelters sharing with law enforcement their protocols for communicating with residents about law enforcement and legal issues (e.g. Does shelter encourage residents who are subjects of a missing person report to contact law enforcement to confirm safety without disclosing location?); 3) law enforcement sharing with shelters their protocols around missing person reports and welfare checks so shelters can educate people in shelter about what will happen if they do or do not communicate with the police; 4) training for law enforcement not to include the survivor's suspected location in their report; and 5) domestic violence advocates participating in law enforcement training, both academy and ongoing, to educate police officers about the role of shelters, the legal and public policy reasons for confidentiality, and the best practices for working together.

**Important:** Currently under the New Mexico Endangered Persons Act, the spouse of a domestic violence victim/survivor, even a perpetrator of domestic violence, can ask police officers to locate their spouse and the officers are required to attempt to locate them and to tell them that they did locate that person. The Confidentiality Taskforce recommends a legislative fix for this problem. Such a fix has been proposed to the New Mexico legislature but has not yet become law.

Until that happens it is advisable for law enforcement in this situation to limit their notification to "We spoke with them and they are fine." Alternatively, the "missing person" can also contact someone in Law Enforcement somewhere (the more anonymous the

better), meet with Law Enforcement officer who verifies they are who they say they are and takes them out of NCIC database. Law Enforcement and domestic violence programs should be aware of and take precautions against, domestic violence abuser tactics, which attempt to misuse government resources to find or harass their victims (e.g. calling 911 claiming victim is suicidal and having police sent to her location, or alleged location, when she made no such call and exhibited no such symptoms).

## **Working with Child Welfare Advocates**

### **Scenario 1- Child Abuse and Neglect Reports**

A staff member at a domestic violence shelter receives a phone call from a Children, Youth and Families Department worker, saying that they have received an anonymous report of serious child neglect by a mother that they believe is in your shelter. They want the shelter staff member to set up a meeting for their investigator to interview the child and the mother.

#### ***Understanding Perspectives and Clarifying Duties of Each Partner***

The mission of Child Protective Services (CPS) according to the National Association of Public Child Welfare Administrators, is to: assess the safety of children, intervene to protect children from harm, strengthen the ability of families to protect their children, and to provide either a reunification or an alternative safe family for the child. CPS staff receive reports of suspected child abuse and neglect, assess the risk to and safety of children and provide for or arrange for services to achieve safe, permanent families for children who have been abused or neglected or are at risk of either. The perspective and major concern of CPS staff is for the safety and well being of the child.

Contrast this to the role of a domestic violence advocate, which is to provide safety and support to victims/survivors of domestic violence and their children by: offering them confidential living arrangements, information, emotional support, help finding resources, safety planning, filling out paperwork and sometimes going to court, public benefits offices or hospitals. The perspective and major concern of a domestic violence advocate is for the safety and well being of the survivor and their children.

#### ***Areas of Conflict that Can Strain Relationships***

Some common problematic issues for domestic violence agency staff and CPS workers include: Is there a duty to report? If so, whose duty is it to report? When is that duty triggered? What can/should be reported? Should the report be made to CPS, law enforcement or both? Is there any way to screen out malicious reports? What happens once the report is made? After a report is made, these additional issues often arise: How should investigations take place when the adult or child who is the subject of the report is

in shelter? Should programs respond differently to investigations of reports made inside the shelter versus those made outside? How much domestic violence training do investigators get?

While both CPS and Domestic Violence agency staff have confidentiality obligations, there is often a conflict in the underlying mandates of each: to keep families together versus to keep victims/children safe. The way in which advocates work with survivors may also lead to conflict: because self-determination is so important, advocates offer survivors information and then support their own decision-making; they don't tell survivors what to do. In the above scenario, if after the advocate told the survivor about the CPS request and weighing the options, the survivor chose not to meet, conflict would likely result.

### ***Shared Goals***

The shared goal to focus on in this situation is the concern for the safety and well being of the child.

### ***Guidance***

Mandatory reporting of child abuse and neglect is required and VAWA cannot be used as a shield against such reports. VAWA has a "statutory mandate" exception to confidentiality, which provides that whenever a state law ***mandates or requires*** a program or person to disclose information, then VAWA allows that disclosure. If the statute does not require disclosure of a certain kind of information, but CPS routinely requests the information or prefers to receive it, that is not a "mandate" for disclosure. Even when disclosure is permissible, the disclosure must be narrowly tailored so that it does not go beyond the specific information required to be disclosed by statute. (For discussion regarding New Mexico's mandatory reporting law, *see Part I of this Manual*).

- Programs should work in advance on a policy level with CPS to determine what the law actually requires be disclosed, and educate CPS to expect only that amount of disclosure and then no more.
- The standard of what must be reported about child abuse and neglect is the same for everyone in the state of New Mexico. (For discussion regarding New Mexico's mandatory reporting law, *see Part I of this Manual*).
- New Mexico's child abuse and neglect reporting statute makes "every person" a mandatory reporter.
- If the New Mexico duty to report extends to every person, then the person who received the information should make the report. Programs should develop an internal protocol for employees to document that a report was made, when and to whom.
- Confidential advocates should not make the reporting decision alone for two reasons:



personal emotional responses (positive or negative) could inappropriately sway the decision-making about whether the law requires a report and the program needs to be sure it is taking a consistent approach to confidentiality breaches which are mandated by law.

- A person has a mandatory duty to report under the New Mexico statute if a person “knows or has a reasonable suspicion that a child is an abused or a neglected child.” The terms “abused or neglected child” are defined in the statute. (For text of Mandatory Reporting statutes, *see Part I of this Manual*). Programs managing confidentiality requirements and mandatory reporting requirements should study this definition of abuse & neglect and develop policy for how they will decide internally whether information received rises to the level of abuse or neglect.
- Under VAWA, if information is released because of statutory or court mandate (e.g., mandatory reporting of suspected child abuse or neglect), program staff must make reasonable attempts to provide notice to victims who are affected by the disclosure of the information and take steps necessary to protect the privacy and safety of the persons affected by the release of information. These VAWA confidentiality provisions apply to any program that receives any VAWA funds.
- Survivors should be told at intake (before they make any disclosures) about mandatory reporting obligations of staff.
- 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 she is comfortable making a voluntary report of child abuse.
- A release of information is ordinarily required for ongoing communication with CPS for follow-up services during the investigation.
- In the scenario above where CPS wants to come to the shelter to investigate an abuse or neglect report, the shelter may not disclose the presence or absence of the child and the mother but should talk to the parent about speaking to CYFD themselves.

**Note:** Mandatory reporting of suspected child abuse and neglect can create an ethical dilemma for domestic violence advocates; their concern for the safety of the children may interfere with the trust relationship they built with their clients. Reports of child abuse or neglect can have very serious consequences, and may compromise the promise of confidentiality by opening up a survivor’s records for review by CPS or other parties in an abuse, neglect or custody proceeding.

## **Scenario 2- Court Orders**

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Court Appointed Special Advocate (CASA) volunteer comes to a domestic violence program and says she wants to see all of the records you have pertaining to a mother and child in the shelter. The Program Director tells the CASA that she cannot give her the information because it is confidential. The CASA volunteer then shows the Program Director a court order that she says allows her access to those records.

### ***Understanding Perspectives and Clarifying Duties of Each Partner***

CASA volunteers act as liaisons between the court and the community for the best interest of the child. CASA's guide children involved in the dependency court system through that system, investigate the case they are assigned to and offer judges information in order to make an appropriate disposition.

Contrast this to the role of a domestic violence advocate, which is to provide safety and support to victims/survivors of domestic violence and their children by: offering them confidential living arrangements, information, emotional support, help finding resources, safety planning, filling out paperwork and sometimes going to court, public benefits offices or hospitals. The perspective and major concern of a domestic violence advocate is for the safety and well being of the survivor and their children.

### ***Areas of Conflict that Can Strain Relationships***

New Mexico Children's Code Confidentiality statute, NMSA section 32A-4-33, grants CASA volunteers access to a large amount of information pertaining not only to the children they are working on behalf of, but potentially to their parent (the survivor). Some of that information, as in the scenario above, may be information that the domestic violence program has a duty to keep confidential. The presence of a court order can easily escalate this conflict from the agency to the courtroom.

### ***Shared Goals***

The shared goal to focus on in this situation is the concern for the safety and well being of the child.

### ***Guidance***

- If a client wishes to disclose his or her private information or that of her child's, it is strongly recommended that the client do so only after receiving legal advice regarding the possible consequences of disclosing confidential information.
- The Violence Against Women Act (VAWA) states that a "court mandate" is an exception to the strict non-disclosure requirements applicable to domestic violence

agencies that receive federal VAWA funding. Common types of court orders domestic violence staff may see include: Orders of Protection, Restraining Orders, or orders pertaining to a child custody or visitation matter in family court. VAWA does not distinguish between different courts within a state (i.e. Municipal, Magistrate or District), so a proper court order from any duly authorized court carries the same weight under VAWA.

- If the domestic violence agency or one of its employees receives a court order, notify the Executive Director immediately and encourage the CASA volunteer to get the information from another agency such as CYFD or the police.
- The Director should then seek legal counsel to determine next steps.
- A court order that violates New Mexico confidentiality and privilege laws (For discussion, *see Part I of this Manual*) should be challenged, through appeal if necessary, by the program's legal counsel.
- VAWA requires domestic violence programs to give notice to a victim whose information is going to be disclosed pursuant to court mandate, and to take reasonable measures to protect the privacy of people affected by the disclosure, not just the victim.
  - ✓ If a court order was issued without the participation of either the program or the victim (e.g. defense attorney in a criminal prosecution requested an order for disclosure and prosecution did not object), then the program should give notice to the victim upon receiving the order, and the Executive Director should obtain counsel to assist in bringing the confidentiality, privilege, safety, and public policy issues to the court's attention and request that the court reconsider the order.
- If a court concludes that New Mexico or federal law mandates disclosure of information by a domestic violence agency, the agency (through its legal counsel) should seek restrictions on disclosure to protect the information, such as:
  - ✓ An in-camera review to determine whether any of the specific information is actually required to be disclosed under law,
  - ✓ A restriction on what is disclosed,
  - ✓ Redaction of identifying information of any other persons unrelated to the current legal issue,
  - ✓ A protective order allowing counsel to see, but not have a copy of the information,
  - ✓ A protective order allowing counsel to possess the information, but prohibiting disclosure by counsel to his/her client or to any other person,
  - ✓ A protective order requiring destruction of the records as soon as court proceedings terminate.

**Note:** There are numerous parties who may try to get client information from domestic violence programs by way of a court order including: defense attorneys, prosecutors, CYFD protective service workers and CASA volunteers. Having policies in place regarding response to court orders and sharing those policies with all parties concerned is advisable. Similarly, building collaborative relationships with local CASA volunteers, Child Youth and Family Department CPS staff and judges, before the court order, will go a long way to solving any problems amicably.

## **Working with Emergency Medical Responders**

### **Scenario**

A domestic violence advocate calls 911 to report an unconscious client in her shelter. EMT's arrive and ask for specific information about the client including the patient's name, age and any medications they may be on.

### ***Understanding Perspectives and Clarifying Duties of Each Partner***

The duty of an emergency medical responder is to provide immediate life saving emergency medical services and transportation to patients in need of those services. In order to provide the best services possible first responders commonly seek information about a patient's past medical history, their vital statistics and the circumstances leading up to the 911 emergency call. Providers of medical services also have confidentiality obligations regarding a patient's private health information pursuant to agency policy, state law and HIPAA, though they do not tend to be as strict as those under VAWA. (For HIPAA Confidentiality requirements, *see Part I of this Manual*)

The role of a domestic violence advocate is to provide safety and support to victims/survivors of domestic violence and their children by: offering them confidential living arrangements, information, emotional support, help finding resources, safety planning, filling out paperwork and sometimes going to court, public benefits offices or hospitals. The perspective and major concern of a domestic violence advocate is for the safety and well being of the survivor and their children. Domestic violence agencies and staff have strict confidentiality obligations to their clients not to share individual personally identifying information about any individual who has received or sought services without the informed, written, reasonably time-limited release of the client, except for the mandatory reporting of suspected child abuse or neglect as required by state law.

### ***Areas of Conflict that Can Strain Relationships***

Emergency medical situations can present confidentiality challenges for staff working in domestic violence shelters and emergency responders. Emergency medical responders

(dispatch and EMT's) may request information about an unconscious client that while perhaps important for treatment, may be personal information that the staff member has a duty to keep confidential.

### **Shared Goals**

The shared goal of both domestic violence advocates and emergency medical responders is to help survivors/patients through a medical emergency and get them to safety and better health.

### **Guidance**

The goal of federal confidentiality laws such as the Violence Against Women Act (VAWA) is to put survivors in control of their own information. (For discussion of VAWA Confidentiality Requirements, see Part I of this Manual).

Therefore, when survivors enter shelter, domestic violence program staff can and should have conversations about whether survivors:

- ✓ Have health concerns that may arise and need to be shared,
  - ✓ Want information shared in the event of a medical emergency (such as drug allergies),
  - ✓ Want to put a safety plan into place that allows the survivor to communicate directly about needs even if unconscious (such as a medic alert bracelet or written information to be shared with EMT's in the event of unconsciousness).
- Domestic violence programs should get pertinent emergency medical releases of information from clients at intake (For Sample Emergency Medical Release, see *Appendix P*).
  - When a survivor has a medical emergency, a conscious survivor can communicate with 911/EMT him or herself. So, the question of what to disclose only arises for the unconscious person. EMT's and emergency rooms are trained to treat people who are unconscious and about whom no information is available. Advocates are not trained to determine what information is medically relevant in an emergency. Advocates **can share** information they have observed in moments leading up to the medical emergency, such as, "She was walking down the stairs and collapsed. I did not see her trip, but she did go white right before she fell. She appears to be in her 40's (rather than the birthdate), non-responsive and breathing shallowly."
  - Advocates **cannot share** the person's history or reasons for working with the agency. Even if it's appropriate to call 911, it is never appropriate to share her/his whole case history or file. This information is rarely relevant to addressing the medical emergency, may in fact point the medical providers in the wrong direction and may cause harm to the survivor later.

**Note:** Even if the above guidance is technically correct according to the intent of VAWA, there may be situations where following it may be uncomfortable and feel as if it may not be morally correct. If the intent of all service providers is to help individuals through a situation and get them to safety, withholding critical medical information may not support the spirit of serving domestic violence victims/survivors.

Best practice for VAWA confidential programs includes:

- ✓ Developing a relationship with EMT's and emergency rooms **before** an emergency happens to understand how they respond to medical emergencies when they do not have identifying information and to explain to them the nature of VAWA and New Mexico victim counselor confidentiality.
- ✓ Meeting with EMT's and supervisors that regularly provide service to the shelter and discuss roles and processes in place for such emergency situations.
- ✓ Following agency emergency policy if there is one but if there is none, agency staff should contact a supervisor after calling 911 and prior to the EMT's arriving on the scene.

**Note:** People in shelter are sometimes hiding from persons who want to cause them serious physical harm. Anything that puts them "on the grid", identifies their location, or discloses their past experiences of abuse could increase the risk of death. 911 calls are recorded and can be accessed by the general public so any identifying information in that call may be accessible. Having said that, it can become an ethical dilemma for an advocate if the emergency situation may be the result of e.g. strangulation or blows to the head, experiences that the survivor has only shared with them in confidence.

Additionally, people who hold regular jobs in the community perpetrate sexual assault and domestic abuse. The perpetrator may be part of the first responder service, part of the medical team at the hospital, or have friends/family in those systems. Giving a name to the EMT could serve to locate the survivor for the assailant. Giving history of alcohol or drug use in the past does not tell the EMT what the emergency is right now and could be used against the survivor later.

## V. NNEDV MODEL FORMS, POLICIES AND TEMPLATES

The National Network to End Domestic Violence (NNEDV) provides adaptable forms, policies and agreement templates for non profit victim service agencies, advocates, and partnerships that provide services to survivors of domestic violence, dating violence, sexual assault and stalking. These templates are part of NNEDV's Technology and Confidentiality Resources Toolkit, which can be found at [tools.nnedv.org](http://tools.nnedv.org). The following are the titles, links and summaries for the English language version of these resources, see the above website for the Spanish versions of each.

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

This model policy has sections addressing: general principles; a written agreement to maintain confidentiality; definitions including what constitutes confidential and personally identifying information; the prohibition to release information to anyone outside the agency (e.g. shelter address, staff and survivor information); protocols for releases of information; and possible exceptions to confidentiality including mandatory reporting.

<http://tools.nnedv.org/template/policies/125-model-policy-confidentiality-privacy-and-vaawa-2005-for-community-based-domestic-violencesexual-assault-advocacy-programs>

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

This document describes the basic requirements for a release of information, and includes sections on who can authorize, consent, governing laws, innovative partnerships and best practices

[http://tools.nnedv.org/tipsheets-charts/tipsheets/122-survivor-confidentialityandprivacyreleasesandwaiversat-a-glance\]](http://tools.nnedv.org/tipsheets-charts/tipsheets/122-survivor-confidentialityandprivacyreleasesandwaiversat-a-glance)

### **Sample Client Limited Release of Information Form**

This form is used to help a client assess risks and benefits of having an agency release some of her/his confidential information to another individual/agency. The form enables the client to choose what information an agency may share, how it is shared, with whom, and for how long.

<http://tools.nnedv.org/template/forms/61-limited-release-of-info-form>

## **Sample Client Notice of Rights/Confidentiality Form**

This form is used to provide upfront notice to each client about their rights and your practices, including your agency's information sharing and confidentiality protections and requirements, and their rights regarding the confidentiality of their personal information and communications.

<http://tools.nnedv.org/template/forms/60-notice-of-rights>

## **Model Visitor Confidentiality Agreement**

The purpose of this Template Visitor Confidentiality Agreement is to ensure that each visitor to a shelter, rape crisis center, transitional housing, family justice center or other victim service agency understands their confidentiality obligations and respects the privacy of clients, staff, and volunteers of the agency or collocated partnership. This can be used to address visits to or meetings with clients, staff, or volunteers whenever there are confidentiality obligations.

<http://tools.nnedv.org/template/forms/133-visitor-confidentiality-agreement>

## **Template Policy: Client Document Retention Policy**

This template is to guide programs in developing policies and procedures on how long a client document should be held by the program. This document provides procedural recommendations for emergency shelter and transitional housing programs as well as programs that provide outreach and legal advocacy.

<http://tools.nnedv.org/template/policies/136-template-policy-client-documentation-retention-policy>

## **Template Policy: Confidentiality and Privacy for Co-Located Domestic Violence/Sexual Assault Advocacy Programs and Partners**

This technology and confidentiality model policy has sections addressing: common goals and understandings, information that gets collected during any collaboration intake process, assessing interest in services and safety planning, protecting confidentiality



while collecting victim information, and, details around managing the confidentiality of information inflow and outflow.

<http://tools.nnedv.org/template/policies/105-templatepolicy-confidentialityprivacyforcolocateddvsa-advocacyprogramsandpartners>]

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

This details policies for service provider understandings and responsibilities, victims' rights, guidelines for addressing system issues through the community collaboration, and, the limited sharing of client/victim information with collaboration partners.

<http://tools.nnedv.org/template/policies/127-template-policy-confidentiality-and-privacy-for-community-collaboration-with-domestic-violencesexual-assault-advocacy-programs-and-partners>

### **Template Memorandum of Understanding: Partnership Agreement for Community Collaborations**

This Memorandum of Understanding (MOU) was created for non-profit victim service agencies in co-located partnerships. This MOU addresses policies to govern the partnership between non-profit organizations and programs that provide services to survivors of domestic and dating violence, sexual assault, and stalking and other community agencies. It details the individual partner's roles and responsibilities, as well as information sharing and confidentiality obligations for the domestic/dating violence and/or sexual assault agency, law enforcement, prosecutor, court partner, medical partner, faith-based and community organizations, and a confidentiality monitor. All partners must sign to acknowledge the agreement.

<http://tools.nnedv.org/template/forms/128-template-memorandum-of-understanding-partnership-agreement-for-community-collaborations>

### **Model Equipment Ownership Agreement Form**

This adaptable agreement form was created for agencies in collocated partnerships although it can be useful in other agency settings as well. It provides agencies in collocated partnerships with an easy way to clearly stipulate who has ownership of any hard drive or devices that holds personally identifiable information. Due to the nature of hard drive memory, certain OVW-funded community based organizations need to

maintain ownership of such hard drives and devices in order to comply with their VAWA 2005 confidentiality obligations.

<http://tools.nnedv.org/template/forms/67-equipment-ownership-agreement-form>

### **Template Policy: Securing Paper and Electronic Information for Co-Located Domestic Violence/Sexual Assault Advocacy Programs and Partners**

This details policies that individual agencies and innovative partnerships should address to secure all electronic, paper and faxed records and information, including computers, electronic networks, and passwords.

<http://tools.nnedv.org/template/policies/126-template-policy-securing-paper-and-electronic-information-for-co-located-domestic-violencesexual-assault-advocacy-programs-and-partners>

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

This technology and confidentiality template policy briefly addresses staff roles, office space, and building security for entities that share a building or have physical access to the space occupied by the partnership

<http://tools.nnedv.org/template/policies/106-templatepolicy-sharingphysicalspaceforcolocated-dvsaadvocacyprogramsandpartners>

### **Victim Confidentiality Considerations For Domestic Violence Programs When Responding to Rare and Emergency Situations**

A wide range of situations can arise for programs providing services to victims of domestic violence, dating violence, sexual assault, or stalking. Given the complex and critical safety issues faced by victims, programs should have policies to address victim safety and confidentiality in unusual or emergency circumstances. Examples of special situations that might arise include: medical and other emergencies; instances where a victim/client (or the victim's child) commits a crime while accessing or using services; and, situations where a victim brings civil or criminal claims against another client or the agency. Programs/agencies should practice best confidentiality and safety practices in each special circumstance that arises. This piece highlights what programs need to know about confidentiality and discusses how programs can respond in: (A) medical or emergency situations; (B) crime or other claim against a victim advocacy program; and

(C) a crime or other claim by one survivor against another survivor using program services.

<http://tools.nnedv.org/template/policies/134-template-policy-victim-confidentiality-considerations-for-domestic-violence-and-sexual-assault-programs-when-responding-to-rare-or-emergency-situations>

### **Technology Safety Tip sheet: Databases, Confidentiality, and Third Parties**

When domestic violence and sexual assault programs are selecting databases to store information, there are many things they need to consider. These considerations may depend on who owns the database, who has access to the database, where the data is stored, and more. This tip sheet briefly highlights: agencies and programs' obligations to confidentiality; how different types of databases impact confidentiality; benefits, risks, and considerations in choosing internally maintained databases versus off-site, remote databases maintained by a third party.

<http://tools.nnedv.org/tipsheets-charts/tipsheets/132-databasesconfidentialitythirdparties>

### **NNEDV Safety Net Project Frequently Asked Questions- Survivor Confidentiality Releases**

This document, "FAQ's on Survivor Confidentiality Releases," addresses common questions that agencies and advocates who work with survivors of domestic violence, dating violence, sexual assault, and stalking frequently have regarding confidentiality and the release of information. It takes into account the confidentiality and privacy provisions in the U.S. federal Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005). In analyzing the meaning and application of the confidentiality and privacy provisions of VAWA 2005, the purpose of the statute (to protect adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking and their families) must be kept at the forefront.

<http://tools.nnedv.org/faq/scr>

# Appendix A: Sample Emergency Medical Release (English)

## ESPERANZA SHELTER FOR BATTERED FAMILIES Consent for Emergency Treatment

\_\_\_\_\_  
Name of Client

\_\_\_\_\_  
Date of Agreement

I UNDERSTAND THAT IN THE EVENT THAT I AND ESPERANZA SHELTER STAFF DETERMINE THAT I NEED EMERGENCY SERVICES, THIS FORM SERVES AS MY CONSENT FOR STAFF TO GIVE FIRST RESPONDERS (911 DISPATCH, EMT, FIRE DEPARTMENT PERSONNEL, LAW ENFORCEMENT AND MEDICAL PERSONNEL) THE FOLLOWING INFORMATION:

- a. My name
- b. My date of birth/age
- c. My current medications/substance use:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Shelter staff have my permission to remove my medications from my locker and give them to emergency personnel on my behalf.

- d. Any current injuries or health issues:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- e. Any known allergies:

\_\_\_\_\_  
\_\_\_\_\_

### Emergency Contact

Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

By signing this, I affirm that I have read and understand the above information.

\_\_\_\_\_  
Signature of Client / Legal Guardian of Client

\_\_\_\_\_  
Date of Signature

I affirm that I have discussed this document with the client.

\_\_\_\_\_  
Name of Staff Person

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Appendix B: Sample Emergency Medical Release (Spanish)

### Esperanza Shelter for Battered Families Consentimiento para Tratamiento Médico de Emergencia

Nombre de Cliente \_\_\_\_\_

Fecha \_\_\_\_\_

**Yo entiendo que en el evento que los empleados de Esperanza necesitan llamar Los Servicios de Emergencia (911, EMT, Departamento de Fuego, La Policía, Los Médicos), yo doy el consentimiento a compartir la siguiente información:**

A. Nombre \_\_\_\_\_

B. Día de Nacimiento/Edad \_\_\_\_\_

C. Medicaciones/Usos de Sustantivos \_\_\_\_\_  
\_\_\_\_\_

D. Heridas/Preocupaciones de Salud \_\_\_\_\_  
\_\_\_\_\_

E. Alérgias \_\_\_\_\_

#### **Contacto de Emergencia:**

Nombre & Relación: \_\_\_\_\_

Número de Teléfono: \_\_\_\_\_

*Yo afirmo que yo he leído y comprendo la información por encima.*

\_\_\_\_\_  
Firma de Cliente o Tutor/a Legal de Cliente

\_\_\_\_\_  
Fecha

*I affirm that I have discussed this document with the Client.*

*Yo afirmo que yo he discutido ese documento con el Cliente.*

\_\_\_\_\_  
Name of Staff Person & Title

Nombre de Empleado & Título

\_\_\_\_\_  
Date

Fecha

Appendix C: Sample Motion to Quash Subpoena for Advocate  
Testimony (Magistrate Court)

IN THE MAGISTRATE COURT

\_\_\_\_\_ COUNTY  
STATE OF NEW MEXICO

STATE OF NEW MEXICO

Plaintiff,

No. \_\_\_\_\_

Judge \_\_\_\_\_

vs.

Police Report No. \_\_\_\_\_

\_\_\_\_\_

Defendant(s).

**MOTION TO QUASH AND FOR PROTECTIVE ORDER**

COMES NOW [**Name of DV Program**], by and through its attorneys of record, and moves this Court to enter an Order pursuant NMSA 1978, §31-25-1 (1987) and Rule 1-045 NMRA quashing a certain Subpoena (“Subpoena”) served by the State of New Mexico on [**Name of Advocate**] of [**Name of DV Program**], on or about [**Date of Service**], and as grounds therefor, states as follows:

1[**Name of DV Program**], is not a party to this action, but was served with a Subpoena on or about [**Date of Service**], by the State of New Mexico, [**Name of Person Serving Subpoena**], [**Title of Person Serving Subpoena**]. A true and correct copy of the Subpoena is attached hereto as Exhibit A.

2. The Subpoena orders [**Name of Advocate**] of [**Name of DV Program**] to appear to testify at a trial commencing [**Date of trial**] at [**Time trial commences**].

3. **[Name of DV Program]**, is a federal and state funded organization which assists victims of sexual and family violence.

4. **[Name of Advocate]** is employed as a Court Advocate by **[Name of DV Program]**. In her capacity as Court Advocate, she assists victims of domestic and family violence to prepare restraining order and other court related documents as well as provides moral support to those victims in Court. She has been an employee of **[Name of DV Program]** for over seven years.

5. Under the New Mexico Victim Counselor Confidentiality Act, NMSA 1978, Section 31-25-2(E), a “victim counselor” is defined as follows:

Any employee or supervised volunteer of a victim counseling center or other agency, business or organization that provides counseling to victims who is not affiliated with a law enforcement agency or the office of a district attorney, has successfully completed forty hours of academic or other formal victim counseling training or has had a minimum of one year of experience in providing victim counseling and whose duties include victim counseling.

6. **[Name of Advocate]** falls with the definition of a victim counselor pursuant to Section 31-25-2(E).

7. As such, services provided to clients by **[Name of Advocate]** and **[Name of DV Program]** are provided with the understanding and expectation that communications associated with those services will be kept confidential. *Id.*; see also Affidavit of **[Name of Advocate]** attached hereto as Exhibit B.

8. Under Section 31-25-2(A), a “confidential communication” is

Any information exchanged between a victim and a victim counselor in private or in the presence of a third-party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of

the counselor's treatment of the victim for any emotional or psychological condition resulting from sexual assault or family violence.

9. **[Name of DV Program]** has every client sign a "Client Rights" form that states, in part, "As a client of **[Name of DV Program]**, you have . . . the right to have your conversations with **[Name of DV Program]** staff members kept confidential (except in cases of child abuse or persistent homicidal/suicidal thoughts)." As a result, **[Name of DV Program]** staff cannot either confirm or deny that they know any parties associated with this case.

10. **[Name of DV Program]** wishes to assist in the prosecution of criminal cases, and diligently attempts to obtain a waiver of the protections afforded by the Victim Counsel Confidentiality Act from a client to allow the **[Name of DV Program]** staff to testify in Court. However, if a waiver cannot or is not obtained, or if the victim was never served by the **[Name of DV Program]**, the **[Name of DV Program]** cannot either confirm or deny that they know any parties associated with the case.

11. **[Name of DV Program]**, has not obtained a waiver associated with this case.

12. Pursuant to Rule 1-045(3)(a)(iii) NMRA, a court may modify or quash a subpoena which would otherwise require disclosure of privileged or protected matters.

13. This Court should quash the Subpoena served on **[Name of Advocate]**, and enter its protective order protecting **[Name of Advocate]**, the **[Name of DV Program]**, and any potential victim from any need to disclose the information sought pursuant to the attached Subpoena.



WHEREFORE, the **[Name of DV Program]** prays that this Court quash the Subpoena served upon it, that it enter a protective order protecting it from any attempts to compel the production of the protected information in the future, and for such other a further relief as the Court deems just and proper.

**[Name of Law Firm]**

By: \_\_\_\_\_  
**[Name address and contact information for Counsel for DV Program]**

**Certificate of Service**

I hereby certify that on this \_\_\_ day of \_\_\_\_\_ 2015, I caused the foregoing *Motion to Quash and for Protective Order* along with this Certificate of Service, to be sent via U.S. Postal Service, postage prepaid, to the following:

\_\_\_\_\_  
  
\_\_\_\_\_

[Name of Law Firm].

By: \_\_\_\_\_  
[Counsel of Record]

## Appendix D: Subpoena Defense Project Announcement

### ANNOUNCING - NEW MEXICO SUBPOENA DEFENSE PROJECT

The New Mexico Coalition Against Domestic Violence is excited to announce a new project in partnership with the New Mexico Bar Association's Volunteer Attorney Program – Protecting Privacy to Enhance Safety, Pro Bono Subpoena Defense Project. This collaboration will match trained pro bono New Mexico attorneys with domestic violence advocates/agencies that receive subpoenas for confidential victim service provider testimony, records and information.

The Issue:

Subpoenas

- Victims of sexual and domestic violence turn to community-based advocates for help.
- Federal law and most states protect the confidentiality of victim/advocate communications.
- Nevertheless, advocates get subpoenaed routinely in a wide variety of court matters.
- Under resourced non-profit advocates need and cannot afford a lawyer to quash subpoenas.

The Solution:

Trained Pro Bono Lawyers

The American Bar Association and the Confidentiality Institute have partnered to develop the Protecting Privacy to Enhance Safety Pro Bono Project, which will:

- Deliver in-person and webinar based training on advocacy and confidentiality.
- Provide a nationwide pro bono manual on protecting privilege and quashing subpoenas.
- Manage a listserv of participating attorneys to facilitate peer support for best practices.
- Offer individualized technical assistance from the Confidentiality Institute.
- Post legal updates and emerging trends to the project website.

The Project:

### Pairing Up Attorneys and Advocates

- Advocacy programs request help from the New Mexico Coalition Against Domestic Violence (NMCADV) and/or the New Mexico State Bar Volunteer Attorney Program (VAP)
- VAP will contact trained attorneys practicing in the jurisdiction of the program.
- Attorneys accepting cases will have support from the ABA, Confidentiality Institute and listserv.

For more information or to sign up please contact Lisa Weisenfeld [NMCADV] at (505) 506-5618 [lisaw@nmcadv.org](mailto:lisaw@nmcadv.org) .

## Appendix E: Confidentiality Task Force Recommendations

### Recommendations on Confidentiality Guidance

- Domestic violence programs should create policies regarding Child Protective Service investigations, medical emergencies and common law enforcement situations.
- Domestic violence programs should obtain limited emergency medical releases of information from clients at intake.
- Domestic violence programs should use written, informed, time limited and specific client releases of information.
- Agencies should provide training at the front line level regarding confidentiality obligations; for example at law enforcement briefings, advocate and Protective Services staff meetings.
- Agency leadership should be involved so front line staff knows that they care.
- Supervisors should be involved early in conflict-laden situations.
- The taskforce should draft model guidelines and a handbook including confidentiality laws, policies and procedures.
- Agencies need to educate each other on internal policies and/or laws regarding confidentiality.
- 911 should be involved in the discussions regarding confidentiality policies and procedures.
- There should be cooperation and education between law enforcement and advocates.
- It would be helpful if various agency policies for challenging situations matched, for example those regarding the severity of the crime being investigated within the domestic violence shelter.
- Front line staff should be encouraged to build relationships across agencies.
- Interactions between Child Protective Services and domestic violence programs should be consistent.
- Agencies should engage more with tribal entities.
- Collaborative response protocols should be developed locally and around the state.
- Model confidentiality Standard Operating Procedures should be developed for law enforcement agencies.

### Recommendations for Training

- Cross training
  - Civil/criminal liabilities

- Leading to agency training, to learn from others then educate our own
- Cross agency communication and training (EMT, LE, DV, CPS)
- Training on the following topics:
  - How abusers manipulate systems (law enforcement, courts, CPS) and what can be done to reduce the manipulation?
  - Law enforcement's duty to locate missing adults and the impact of notification.
  - NCIC guidelines.
  - How to build relationships across agencies?
  - How to engage agency leadership?
  - Cultural awareness training on law enforcement, judge, and advocate cultures.
  - The difference between anger management and batterer's intervention courses.
- Training at the front line level regarding confidentiality obligations at LE briefings, advocate and CPS staff meetings.
- Educating law enforcement on victim advocates roles and responsibilities.
- Multi-disciplinary teams should deliver trainings.

### **Recommendations for Improving the Way We Work Together**

- Cross agency communication and training.
- Better understanding of each other's roles and responsibilities.
- Greater identification and understanding of confidentiality laws in detail.

## Appendix F: Sample Letter from Executive Director of Domestic Violence Agency to Police Chief Requesting Meeting

Chief Smith

Anytown Police Department

Anytown, New Mexico \_\_\_\_\_

January 1, 2015

Dear Chief Smith,

I am the Executive Director of \_\_\_\_\_ domestic violence program and I am writing today to request a meeting with you at your earliest convenience. The reason I'm reaching out to you today is because I consider the Police Department a very important community partner of our program and the survivors we serve. Productive working relationships between police officers and advocates are critical for the safety of domestic violence survivors. As a first step towards strengthening this partnership I would like to meet with you to clarify the roles and responsibilities of law enforcement and domestic violence service providers. Please let me know when you might be available. I look forward to hearing from you.

Sincerely,

## Appendix G: List of Confidentiality Related Resources

### Print Publications

Advocacy Challenges in a CCR: Protecting Confidentiality While Promoting a Coordinated Response, Sandra Tibbetts Murphy, January 2011 Battered Women's Justice Project.

Confidentiality, an Advocates Guide, (Revised September 2007) Battered Women's Justice Project.

Confidentiality and Information Sharing Issues for Domestic Violence Advocates Working with Child Protection and Juvenile Court Systems, Jill Davies Esq.

Confidentiality Best Practices Manual- Resource Manual for District of Columbia Domestic Violence Programs, 2d edition Revised and Updated: January 2011, Edited by Julie Kunce Field, Esq.

From Hippocrates to Hipaa: Privacy and Confidentiality in Emergency Medicine Part 1: Conceptual, Moral and Legal Foundations, Annals of Emergency Medicine Volume 45, no. 1, January 2005.

New Mexico Child Welfare Handbook: A Legal Manual on Child Abuse and Neglect, Corinne Wolfe Children's Law Center and the New Mexico Judicial Education Center.

Walking a Tightrope: Balancing Victim Privacy and Offender Accountability in Domestic Violence and Sexual Assault Prosecutions Part I: An Overview of the Importance of Confidentiality and Privilege Laws, Viktoria Kristiansson J.D. – Strategies, The Prosecutor Newsletter on Violence Against Women, Issue # 9 May, 2013 AEquitas.

Walking a Tightrope: Balancing Victim Privacy and Offender Accountability in Domestic Violence and Sexual Assault Prosecutions Part II: Protecting Privileges and Victims Who Assert Them – Strategies, The Prosecutor Newsletter on Violence Against Women, Issue # 10 May, 2013. AEquitas

Working Together: A Desk Guide Domestic Violence Advocates Co-Located at DHS Self Sufficiency and Child Welfare - A Project of the Oregon Law Center, the Oregon Coalition Against Domestic and Sexual Violence, Mid Valley Women's Crisis Service, the Oregon Department of Human Services and the Multnomah County Domestic Violence Coordination Office.

## **Policy and Legal Resources**

The Confidentiality Institute – [www.confidentialityinstitute.org](http://www.confidentialityinstitute.org) ;(800)-985-5541

The New Mexico Subpoena Defense Project – [lisaw@nmcadv.org](mailto:lisaw@nmcadv.org), (505) 506-5618

New Mexico Legal Aid – [www.nmlegalaid.org](http://www.nmlegalaid.org), (505) 243-7871





**Collaborate** **Connect** **Coordinate**  
**Coalition**

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