




Inspire Action for Social Change Inspired Boost Session

Part 1: September 15, 2022



Documentation, Disclosures, & Confidentiality for Supervised Visitation Programs



DOCUMENTATION, DISCLOSURES & CONFIDENTIALITY IN SUPERVISED VISITATION PROGRAMS

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Alicia Aiken

- Attorney with 15+ years representing survivors of violence & people in poverty
- National expert on privacy for violence survivors
- Experienced consultant on strategic issues for mission-based orgs



Confidentiality Institute

- Technical assistance, training and policy insight on privacy for crime victims & violence survivors.

www.confidentialityinstitute.org

- A project of:
Center for Strategic Advocacy
– Building the tools of social justice

Danu

www.danucenter.org



Learning Targets

As a result of this training, you will:

- Understand the difference between privacy, confidentiality, and privilege.
- Discuss best practices for documentation and disclosure policies.
- Explore the complicated questions that can arise in visitation and exchange programs.



Keys to Handling Confidentiality Issues Well

LEAD

Leading from safety

UNDERSTAND

Understand your role and your agency

COMMUNICATE

Communicate clearly with parents, children, and broader community



DIFFERENCE BETWEEN PRIVACY, CONFIDENTIALITY & PRIVILEGE



Privacy Concepts



POLL: True/False

If you tell parents and children that they must be open and honest with visitation supervisor, then they always share everything important.



Privacy Concepts



Confidentiality = A Promise



- Promise to respect privacy choices
- Permission to take time choosing
- Promise not to volunteer information
- Honesty about exceptions
- Sometimes by law, sometimes by policy



POLL

Do participants have any confidentiality with you in your supervised visitation program?
– Yes/No



If Yes, What Is the Source of That Confidentiality?

Write down the source
& whether differs depending on
participant (adult, child, custodial, etc.)

If NO, make a note for yourself as to
why no confidentiality for any
participants



Sources of Confidentiality in Supervised Visitation

- Not usually covered by state law
- Federal law may apply
- Professional ethics
- Agency policy



VAWA Funding

- Strict “no disclosure” without written consent confidentiality rule applies only to grantees
- Applies to information collected
- As part of providing victim services

- Supervised visitation programs are victim services under VAWA



HIPAA Healthcare Confidentiality

- Supervised visitation is not likely to be healthcare
- HIPAA applies to healthcare providers who electronically bill for services



Social Work Ethics

- NASW Code of Ethics Rule 1.07:
 - Social worker should protect the confidentiality
 - Of all information obtained during service
 - Except for compelling professional reasons
 - Disclose minimum amount necessary



Exceptions to Confidentiality



Situations where law requires sharing



Situations where your policy requires sharing
And that sharing doesn't violate law



WHAT ARE THE LIMITS TO CONFIDENTIALITY IN YOUR PROGRAM?

- Take a minute and write down all the limits/exceptions that you can think of.



HOW DO YOU COMMUNICATE THOSE LIMITS TO PARTICIPANTS?

- Write down all the ways you communicate the limits.



Communicating Clearly



Use plain language

Documents written at 6-8th grade reading level



Prioritize understanding

Not just proof that notice given



Communicate using multiple formats

Meet different learning needs



Privacy Concepts



Privilege = Right to Refuse in Court

- Because privacy is more important to society
- Folks with privilege cannot be forced to share in court
- Rule may have exceptions where can be forced



POLL

Do participants in your program have privilege to prevent you from sharing with the court?

- Yes
- No
- Not sure



GET, GOT, GIVE

*Best Practices for
Documentation & Disclosure*



Make Information Practices Fit Your Role

- How do you understand the role of supervised visitation programs?



Supervised Visitation in Context of Intimate Partner Violence

WHAT IT IS

- Space for visit to happen without abuse of either parent or children.
- Interrupt harm related to reason family is using services.
- Make visible behavior that poses a continued risk to survivors and their children.

WHAT IT IS NOT

- NOT proving abuse outside of visitation context
- NOT demonstrating good or bad parenting
- NOT proving who should have custody or should have certain kinds of visits

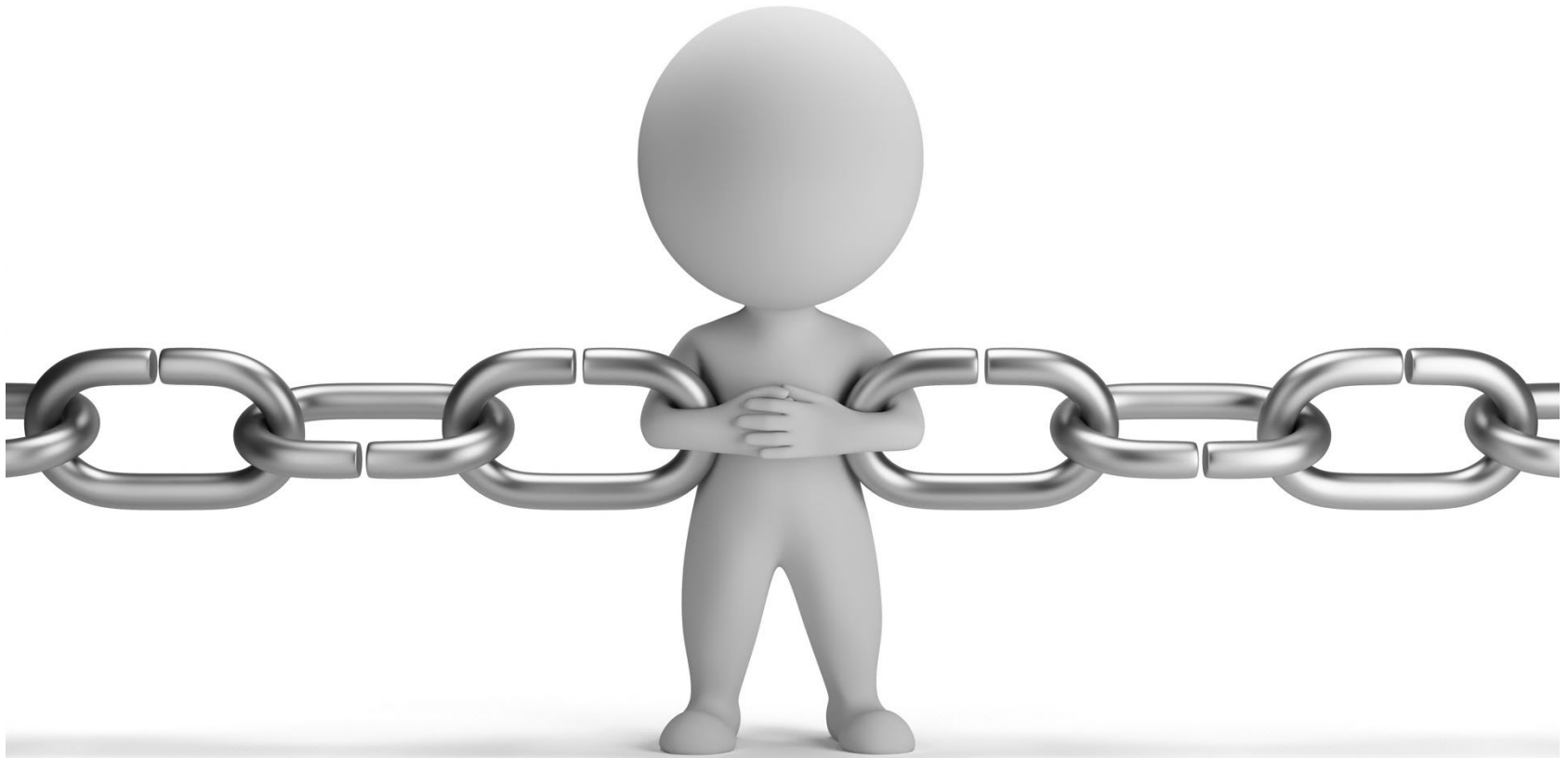


GET

Your Role & Your Reasons for Collecting Info



Privacy & Safety Are Linked



GOT



Your Role & Your Reasons for Retaining Information



Purposes for Retention

- Communication between staff for smooth center operation.
- Safety of staff and participants by being aware of specific risks.
- Documenting behavior that poses safety risk/violation of rules.
- Explaining program decisions about participation and logistics.



Different Purposes = Different Retention Protocols

What is this
for?

How much
detail needed?

What is best
method to
document it?

How soon
should it be
destroyed?

Would
disclosure harm
child/survivor?



Keeping Separate Kinds of Files

Info Shared
By Survivor

Info Shared by Abusive
Parent

Staff to Staff
Work Product

Info Shared
By EACH Child

Info about visits
(logistics & observations)

Documenting Observation of Visits

- Create forms that guide your staff
- Use checkboxes/narrow prompts related only to your role (see above)
- Limit space for narrative as relates to role

- Need help? Ask for TA!



Court/Attorney/Outside Agency Seeks Participant Information



WHAT DO YOU DO?



HOW DO YOU DECIDE WHAT
TO DO?



GIVE

- Have a clear policy about how each kind of file shared.
- Be transparent with participants about what can expect.
- Educate community and courts about file sharing expectations.



Releases/Waivers/Consent

- How does your agency use release forms to facilitate sharing of information?
- How do you communicate with participants about releases?
- Are those releases voluntary?



If Receiving VAWA Funding...

- Release for minor's file cannot be given by abusive parent
- Release for minor's file might need minor signature, too
 - Depending on age
 - See [Guide to Working with Survivors to Release Information](#) on techsafety.org



What Complicated Situations Do You Deal With?



Questions?



Resources for Understanding Confidentiality in Victim Services

NNEDV Safety Net Project

- safetynet@nnedv.org
- www.techsafety.org/resources
- www.techsafety.org/confidentiality

Confidentiality Institute

- alicia@confidentialityinstitute.org
- www.confidentialityinstitute.org





THANK YOU!

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We are here to provide you support - please contact us anytime!

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Focus of the Next Session

Part 2: Considerations for Addressing Confidentiality, Mandated Reporting, and Information Sharing in Supervised Visitation with Young People

October 24, 2022

7-8:30 AM Hawaii / 9-10:30 AM Alaska / 10-11:30 AM Pacific / 11 AM-12:30 PM Mountain
12-1:30 PM Central / 1-2:30 PM Eastern