

Law & Informed Consent

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Learning Objectives

As a result of this course, you will be able to:

- ▶ Describe the differences between:
Privacy, Confidentiality & Privilege.
- ▶ Assess the strength of legal protections for
crime victims' personal information.
- ▶ Apply the laws to appropriately handle
disclosure of information as directed by
survivors

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Privacy
I decide who knows my information.

Confidentiality
You commit to protect my information.

Privilege
They can't make you share my information.

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Individuals need privacy to exercise control over life situations.

Professionals promise confidentiality to build working relationships.

Governments bestow privilege to protect social values.

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Confidentiality Under Federal Law

› Who has got your back?



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Washington has got your back!

- › **VAWA** *requires* grantees to protect confidentiality and privacy of persons receiving or seeking services.
- › **FVPSA** has the same requirement!
- › **VOCA** requires confidentiality measures as well.

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Congress agreed that...

- › VAWA/FVPSA funding
+ individual survivor information
= *survivor controls further disclosure*
- › Personally identifying information:
 - belongs to the survivor,
 - is controlled by survivor &
 - is disclosed by survivor

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VOCA Agrees:

- ▶ Programs must have policies & procedures to protect victim information
- ▶ Recipients of services must be notified information will not be revealed
 - except for research or statistical purposes.
- ▶ Penalty for violating VOCA confidentiality = up to \$11,000 fine

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What's "Personally Identifying"?

What's "Individual Information"?

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"Personally Identifying Information"

- (A) a first and last name;
- (B) a home or other physical address;
- (C) contact information;
- (D) a social security number; and
- (E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

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Except...

- ▶ VAWA & FVPSA have exception for:
 - Statutory Mandate
 - Court Mandate
 - Law Enforcement, Court & Prosecution generated information
 - Aggregate Non-Identifying Information

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When is Aggregate Identifying?

- ▶ When it's not actually aggregate.

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Confidentiality Under Idaho Law



Exclusively yours

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Idaho Adopts Federal Confidentiality Standards

- ▶ Service Standards for ICDVVA effective 7/1/2014:
 - If receive Federal or State funds,
 - -> Must comply with Federal confidentiality levels

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got consent?

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Elements of Informed Consent

- ▶ Freely given
- ▶ Survivor-defined use of information
- ▶ Use serves survivor's needs
- ▶ Agreed on exactly:
 - What gets shared
 - How long and how often
 - With whom can share
- ▶ Ability to change mind

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W.I.T.S. Release

- ▶ Written
- ▶ Informed
- ▶ Time-Limited
- ▶ Survivor-Centered

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Always Written?

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How Time-Limited?

- ▶ Shortest time necessary to achieve purpose
- ▶ Always fill in the blank
 - Not standard time
- ▶ Can be shortened by survivor
 - Revoke release
 - VERBALLY or IN WRITING

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Who signs release?

- ▶ Person with a court-appointed guardian?
 - Person if can receive services w/o guardian
 - Guardian if cannot receive services w/o guardian
 - *NOT* an abusive Guardian

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Who signs if victim is minor?

- ▶ Minor alone if:
 - emancipated
 - can receive services w/o parent
- ▶ Minor & non-abusive parent if cannot receive services w/o parent
- ▶ *NOT* abusive parent
 - Abusive to minor OR
 - Abusive to other parent

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