

Confidentiality in the Time of COVID-19

Violence Free Minnesota, Minnesota Coalition Against Sexual Assault, and Standpoint are working together to remind all programs that nothing has changed as it relates to our statutory and grant confidentiality requirements. While medical providers or other healthcare workers may be required to notify the Minnesota Department of Health if a patient tests positive for COVID-19, domestic and sexual violence programs and staff do not fall in to any of those categories. The statutes that govern our confidentiality requirements are distinct and we are still required to protect any and all information we might have or know about a victim/survivor.

Statutes that Require Confidentiality in our Work

Federal Law

- Family Violence Prevention and Services Act (FVPSA)
 - 42 USC Sec. 11375(c)(5)
 - 42 USC Sec. 10406(c)(5)
- Victim Compensation and Assistance Program (VOCA)
 - 28 CFR 94.115
- Violence Against Women Act (VAWA)
 - 34 USC § 12291(b)(2)
- Housing and Urban Development (HUD)
 - 42 USC 11375(c)(5)

State Law

- Sexual Assault Counselors
 - Minn. Stat. § 595.02, subd. 1(k)
 - Minn. Stat. § 13.822
- Domestic Abuse Advocate
 - Minn. Stat. § 595.02, subd. 1(l)
 - Minn. Stat. § 611A.32
- Crime Victims
 - Minn. Stat. § 611A.46

When Can I Share?

When there is a release of information signed by the victim/survivor. A release must be voluntary, time-limited, and informed, meaning that the victim/survivor knows who will be given this information and is aware of the risks and benefits of release. Best practice is for the release to be written; however, given the current circumstances there may be incidences where getting a written release is not possible. Consider turning your current release of information form into a fillable PDF that can be sent to the victim/survivor if they have internet access. When a victim/survivor does not have access to the internet, conference calling with the victim/survivor and the third party is another option. If neither of these options are feasible, then the program could do a “verbal” release with the victim/survivor. The advocate should read the program’s written release to the victim/survivor and verify their understanding. Then document the date and time that the victim/survivor gave verbal permission for the program to share the information.

When Can I Share without a Release of Information?

- 1) Follow your agency’s policies for mandated reporting
- 2) In the case of a medical or other emergency
 - a. Still seek consent whenever possible
 - b. If consent is not possible, reveal as little of the victim/survivor’s personally identifying information as possible

Can I share if a doctor or someone else requests information about a victim/survivor who is having symptoms (or tested positive for COVID-19) or others they have been exposed to?

Without a valid release of information, a program can neither confirm nor deny they are working with that person. The program should call the victim/survivor and let them know that the program has received this call and seek guidance from the victim/survivor on whether they would be willing to sign a release of information.

What if the Agency receives a Subpoena or Court Order to disclose information?

Call Standpoint right away and they will provide further direction. Standpoint: 800-313-2666