

Guidelines for Record-Keeping for Sexual Assault Advocates

Record-keeping in advocacy programs is necessary and important for several different purposes. But, record-keeping also can be fraught with challenges. The goal of this fact sheet is to offer some guidelines about client record-keeping for programs to consider.

<p>Why must advocates keep client records?</p>	<p>Record-keeping in advocacy programs is necessary for several different purposes:</p> <ul style="list-style-type: none"> • Funders want documentation that you are providing the kinds and numbers of services they are “buying.” • Other staff may need to rely on notes in a file in order to respond to a victim with whom they have not worked with before. • Advocates may need to be reminded where a victim is in any process requiring assistance from the advocacy program. • We want to be sure that victims are receiving the highest quality services from us.
<p>How can record-keeping be a challenge?</p>	<p>But, record-keeping and record-keeping procedures can be fraught with errors and challenges. While “comprehensive records” can help us remember details, those same records could be misunderstood, taken out of context, misinterpreted in light of any current court action, and ultimately misused to cast doubt on a victim and her/his situation. First and foremost, an advocate should consider what would happen if anything you wrote were disclosed to the most dangerous person possible – the offender. How might what I wrote be used against the victim? Misunderstood? Misrepresented?</p> <p>It is important for advocacy programs to develop a guiding document and train advocates about how to record information. For the most part, advocates’ files contain only information that other parties know. Advocates do not conduct investigations; they do not do analytical therapy with victims; they typically know only what the victim has told others. Hence, advocate files contain only third party information and as such are not useful to anyone else. Guidelines should also address file retention</p>

timelines, how file safety is maintained, who has access to files, and a process for reviewing appropriateness of record-keeping. MNCASA can provide sample policies.

Can we share information with our collaborative partners?

Working collaboratively with local law enforcement, prosecutors and others to establish aggressive investigation and prosecution practices can put advocacy partners in a sticky place. Agreeing to collaborate does not necessarily mean disregarding the individual victim's right to confidentiality. If you are working closely with criminal justice agencies there is a fine line between cooperating with the agency, acting in the best interest of your client, and making sure you are complying with federal and state requirement relating to confidentiality that may be stipulated by your funders. Your clients may sign release forms to ease interagency communication, but the consequences of doing so should be discussed with them first. Make sure you clearly articulate your agency's confidentiality guidelines with criminal justice partners so they understand the parameters of your ability to share information.

Suggested Guidelines for Record-Keeping:

- Everyone associated with the program (employees, volunteers, student interns, Board of Directors, etc.) must maintain confidentiality of information associated with program participants and should sign an agreement to that effect.
- Programs can never accurately assess the impact their records or testimony may have on a client of the program. All client-identifying records should be generated based upon the recognition that the client must be served by what is recorded.
- Determine what records your program needs to keep compliant with state and/or federal grant reporting requirements.
- Determine the length of time records are to be kept. Review files prior to closing to remove any extraneous notes. Shred files as soon as possible after the file retention end date.
- Designate a records custodian. The most practical person for this role is the Executive Director. This person is responsible for ensuring that appropriate files are being kept, that they are securely locked and available to staff, volunteers, and interns only on a need-to-know basis.
- Program participants can review their files with supervision.
- Create a consent form. Always secure consent before releasing records. Provide informed consent about the risks associated with releasing information to others. See SVJI fact sheets on confidentiality.
- Do **not** keep unnecessary information in a client/victim file. For example, information not related to the current contact or case should not be permanently recorded.
- Information needed for collection of statistics or services should be recorded but without detail about the victim. For example, record "met with the victim to provide supportive counseling" or "shared with victim the date of the upcoming sentencing hearing. Victim will attend." Do **not** record, "Talked with the victim about the most common symptoms that rape victims experience" or "victim says she is planning on attending the sentencing hearing so she can spit on defendant."
- Do **not** record:
 - Your personal opinions, observations, or criticisms of the victim. "I think she is not telling the truth" or "I think she came into my office high on

- something.”
- Casual comments, conclusions, or diagnostic determinations.
 - Statements written by the program participant (other than a signed consent form).
 - Verbatim comments.
 - Documents received by the program participant from other sources and agencies such as the court system, human services, etc. (Of course, public documents that are already available to the defendant such as complaint form, police reports, etc., are not a concern. What are of concern are documents such as child protection reports or mental health reports that are not publicly available to the defendant.)
 - Photographs of injuries. These should be dated and given to the program participant and are to be considered her property. Holding those photos may put the advocate in the position of maintaining evidence specific to a case. (Sometimes, advocates are asked to hold personal items in safety for a victim because they fear theft in a shelter, etc. Programs should designate a separate secure area for storing personal items for victims. They should not be routinely stored in the client’s file.)
- Provide a document to victims explaining your record-keeping guidelines. Program users should have clear information about what information is being kept about them, how that information is stored, how long it is kept, and who has access to it.

* Some information in this fact sheet adapted from the Oregon Coalition Against Domestic and Sexual Violence, “Office Policies on Recordkeeping.”

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