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STOP Newsletter

Services and Training
for Officers and Prosecutors

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Address Confidentiality Program

By Ellen Kramer Adler, PA Managing Attorney for PCADV

On November 30, 2004, Governor Edward G. Rendell signed into law Act 188 of 2004. Amending Titles 23 and 75 of the Pennsylvania Consolidated Statutes, Act 188 establishes a system to create and maintain confidentiality of the addresses of victims of domestic violence, sexual assault, and stalking. Known as the Address Confidentiality Program (ACP), it is overseen by the Office of Victim Advocate, which has the power and duties to confer address confidentiality upon eligible applicants. Eligibility is determined by ACP, which applies the statutory requirements to certify an applicant for participation. Pursuant to that definition,¹ an eligible applicant is a victim of domestic violence, sexual assault, stalking, or persons who live in the same household as the participant.

The program has two components. It provides participants with a substitute address, which is used when a victim has moved to a new location unknown to the perpetrator. This address can be used to receive mail, and as the address on return labels. State and local government agencies are mandated to accept the substitute address.² Private entities may also accept the substitute address, but are not mandated by the Act to do so.

ACP also provides a free first-class confidential mail forwarding service, with some reasonable limitations. For example, the program cannot forward magazines, packages, or junk mail. Participants are advised that the process will delay their receipt of their forwarded mail from five to seven days.



In order to participate in ACP, a victim should complete an application in person at any local domestic violence, sexual assault, or victim service program in Pennsylvania. There are no jurisdictional limitations on where a victim can apply. A parent or guardian can apply on behalf of a minor child or an incapacitated individual. Victim services professionals can assist victims in completing the paperwork and understanding their rights and responsibilities. These professionals also can help victims develop a safety plan and determine whether participation in ACP is appropriate for their circumstances.

Once accepted into ACP, the participant receives program

23 Pa. C.S. §6704
23 Pa. C.S. §6707

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Questions about Confidentiality Answered

A: Again, PCAR standard e. under section B: Preservation of Confidentiality states:

"If a client informs a counselor that she/he intends to commit suicide, the counselor may serve as petitioner on a mental health commitment, in accordance with the organization's policy."

In regards to a client who has threatened homicide; the counsellor/advocate needs to question the client further to determine if the client demonstrates (a) a specific plan; and (b) the means to carry out the plan. If both these conditions are met, the counsellor/advocate needs to discuss this with their direct services supervisor and make a report to the police.

Q #5: "If I am in an emergency room setting and a victim begins to disclose to me with the nurse in the room, is the confidentiality of the client maintained?"

A: In the event that a third party is present, the confidentiality of the client is not maintained. This applies even if the other party also has privilege over confidential communications such as an attorney.

Q #6: "We are wondering whether or not the parents of a client who is fifteen years old can have access to their child's counseling records."

A: As a general rule, where a minor has the authority to consent to his/her own treatment and the consent of the minor's parent or guardian is not needed, the minor controls the release of his records regarding that treatment.

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Developed by the Pennsylvania Coalition Against Rape and the Pennsylvania Coalition Against Domestic Violence.



Keeping It Confidential

Questions about Confidentiality Answered

Questions answered by Diane Moyer, Legal Director, PCAR

PCAR recently asked advocates if they have concerns or questions regarding confidentiality as it relates to providing sexual assault services. Questions submitted by advocates were forwarded to Diane Moyer, PCAR's legal director, for clarification.

Q #1: "I know this comes up a few times, but I would like to hear more about dealing with confidentiality issues for dual centers, who have to adhere to both PCADV and PCAR guidelines".

A: From a strictly contractual standpoint, PCAR confidentiality guidelines apply to clients who are being served using funding from PCAR. Practically speaking, it may not be entirely clear if a client is a victim of domestic violence or sexual assault. Ultimately, it is the decision and responsibility of the center director or his/her designee to make the tough calls regarding safety, liability, and confidentiality.

The Board of Directors has just approved the standards for service which include for PCAR member centers, the ability to "inform the appropriate legal authority" "if a client informs a counselor that s/he intends to commit a violent crime or to be dangerous to others." Confidentiality for rape crisis center personnel was predicated upon the similarity in function between a psychologist/psychotherapist and a rape crisis center counselor. The standards reflect the same duties to warn of injury to self or others of private sector counselors.

The delicate balance between upholding confidentiality, the duty to warn, liability to others, and ethical concerns about having the knowledge of imminent harm must ultimately be decided on a case by case basis by the people who are responsible for the consequences of that decision.

Q #2: "Anything to do with the use of the web for communications... we have clients (mostly teens) who will not come in or use the hotline."

A: Currently, there are no PCAR standards regarding the use of the web for counseling. However, the counselor/advocate has the responsibility to inform the service recipient of safety limitations and the possibility of unintentional piercing of the confidentiality. Advising the client of these limitations is

imperative so they can make an informed decision before using any web communications.

A few centers are beginning to use web communications as a way to provide initial information to potential clients, with the goal of having that person physically come to the center. Centers also report that web communications have been used to disseminate information, answer posted questions, and set appointments. No centers currently use "real time" counseling (such as instant messaging).

Although web counseling is potentially the wave of the future, there are still some very real issues for centers to consider. First, a center can be held liable in the event that their computer system is accessed or "hacked" into by an unscrupulous individual. Second, even if a victim is given a password or other identifier, the counselor has no way of knowing who is actually logging in with that password. Finally, confidentiality cannot be assured in this on-line environment and the counselor/advocate is jeopardizing their client's trust with this false sense of security.

Due to the recent national discussion about this issue, PCAR dedicated it's most recent newsletter to on-line counseling. Centers may want to refer to this newsletter for additional information. Also, the PCAR Information Technology team is available to assist centers in dealing with the technical issues relating to on-line communication. They have provided invaluable assistance to other centers and are available by calling PCAR at 1-800-692-7445. PCAR also has a discussion group about on-line counseling. Centers can participate either in person or via telephone. Please contact Joyce Lukima at PCAR for information about meeting dates.

As an organization whose mission is to advocate for the "needs of victims" we must ultimately recognize that there are those victims and survivors whose choice it is to engage in counseling via the computer.

Q #3: "I think it would be good to address confidentiality, mandated reporting of child abuse, and face to face as well as hotline calls."

Address Confidentiality Program

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information and an ACP laminated identification card. The card includes the participant's name, signature, the substitute address, and the participant's unique ACP identification number. This number must be used on all correspondence to be received by ACP on behalf of the participants. Participants should use the substitute address as their official mailing address.

Participants are responsible for informing state and local government agencies of their enrollment in the program and requesting that their correspondence is sent to this address. Requests to other businesses and organizations can be made at the discretion of the participant.

It is important to understand that ACP is but one tool available to keep a victim safe. Generally speaking, the fewer people who know the actual location of a victim, the safer he or she will be. ACP can only work if the perpetrator does not know where the victim lives, and when used in conjunction with other safety strategies. Therefore, it is critical that a victim work closely with a victim services professional to develop a comprehensive safety plan.

The ACP has been in place since March 2005. Currently 50 adults and children are enrolled in the program, which is consistent with the experiences of other states that have enacted similar programs. Carol Lavery, Pennsylvania's Victim Advocate and program administrator, reports, "We are extremely pleased with the operation of the program to date as well as the high level of cooperation we are receiving from Pennsylvania's state and local government agencies. Clearly, this is a collaborative effort. Without the cooperation of these agencies and the local and statewide victims services organizations, we would be unable to offer such a critical safety tool to victims throughout the Commonwealth."

For more information, visit the Office of Victim Advocate Web site at www.ovs.state.pa.us.



A: PCAR standards state in Section B: Preservation of Confidentiality.

c. When a counselor, in the course of her/his work has reasonable cause to suspect on the basis of his/her training and experience that a child coming before him/her in the context of his/her work is an abused child, the center must report suspected child abuse to the **Pennsylvania Childline and Abuse Registry at 1-800-932-0313** or: the child protective services unit of the county children and youth agency, as per 55 Pa. Code 3490.4 and 23 Pa.C.S. 6311.

The phrase "a child coming before" has been interpreted by Children and Youth to mean on the telephone as well as in person. To facilitate this process, centers should:

- Provide training to staff on mandated reporting requirements (this can be provided by PCAR).
- Have a written policy that outlines how calls are made to childline (does the director make the call, who is responsible for the call if the director is not available).
- Have a written protocol for how prevention educators deal with disclosures of child abuse during school programs.
- Review these policies frequently at staff meetings.

Q #4: "What is the confidentiality requirement with involuntary mental health commitment for someone who is presenting as suicidal or homicidal?"

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