

Domestic Violence Advocacy Organizations' Responsibilities as Mandatory Reporters of Child Maltreatment

Domestic violence is a complex issue within families. Men who physically assault their female partners significantly more likely to abuse children and animals in the family¹, and domestic violence has been cited as the “single major precursor to child abuse and neglect fatalities in the United States.”² Abusive men actively use coercion within their family system in order to gain and maintain control over their family members, which complicates intervention responses and victims' attempts to attain safety. When there is an intersection of domestic violence and child maltreatment concerns, both Child Welfare and DV advocacy organizations may be in contact with a family. The degree to which each response agency can partner with the adult victim in order to fully understand the abuse dynamics will significantly impact the likelihood of safety and wellbeing for the adult and child victims. Within this complex reality, what are the expectations on DV advocacy organizations regarding sharing information with Child Welfare?

Both federal laws and state-specific laws need to be considered in order to guide compliant policy and appropriate practice on the part of DV advocacy organizations. Navigating this issue is of such importance that the Child Welfare Information Gateway³ online clearinghouse has an Ethics and Confidentiality page, which lists several resources relevant to the discussion of reporting expectations on DV advocates. One resource linked to from their site underscores that:

In any collaboration between child protection and domestic violence, the question of information sharing can create anxiety and discord and/or create increased understanding and relationship. When discussing the how's and when's of information-sharing the central purpose must remain clear—that our efforts must serve to enhance the goals of safety, well-being, stability and dignity for abused children, victims/survivors of domestic violence, families and communities. ... While mutual goals and efforts to achieve safety and security for all victims exist [within DV and Child Welfare agencies], the frameworks through which these goals are pursued ... rely on distinct and different mandates and laws for guidance⁴.

¹ Jeffrey Edelson. *Mothers and Children: Understanding the Links Between Women Battering and Child Abuse*. (1995) Available at: www.mincava.umn.edu/documents/nij/nij.html

² Howard Davidson, “Professionals Working with Children,” *The Impact of Domestic Violence on Your Legal Practice: A Lawyer's Handbook*, 5-20, (Goelman, Lehrman, Valente, eds., 1996) citing *U.S. Dep't of Health & Human Services, A Nation's Shame: Fatal Child Abuse and Neglect in the United States* (1995).

³ The Child Welfare Information Gateway is a service of the Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services, available at: www.childwelfare.gov.

⁴ Jill Richard, M.Ed. *The Confidentiality Series Vol. 1: Information Sharing in Collaborative Relationship: Domestic Violence and Child Protection* (April 2004) A collaboration of the Vermont Network Against Domestic and Sexual Violence, the Vermont Department for Children and Families, and the Vermont Center for Crime Victim Services. Retrieved from: http://new.vawnet.org/Assoc_Files_VAWnet/VTNetworkDV-CPSPub3.pdf

Domestic violence advocacy organizations foremost must comply with federal laws, including the Violence Against Women Act (VAWA) 42 USC §13925, and the Family Violence Prevention and Services Act (FVPSA) 42 USC § 10402, among others.

VAWA is the most relevant federal authority on confidentiality of children's records. It regulates the steps all VAWA-funded programs must take to preserve confidentiality for persons receiving services. ... Absent consent of the client, the information may only be released when compelled by court or statutory mandate, and then only in strict accordance with any procedures set forth by statute or court order.⁵

In addition to VAWA, confidentiality of domestic violence survivor information is governed by CRS § 13-90-107 and the 2005 Colorado Supreme Court Case *People v. Turner*. Advocates in Colorado must also comply with CRS § 19-3-304 regarding mandatory reporting of child maltreatment.

Mandated reporting obligations are specifically limited and defined by law. ... Even where a report is mandated, the report is the limit of the exception to confidentiality. Other disclosures of confidential survivor information, even by the same professional, must be done subject to an informed, written, reasonably time-limited release of information from the client.

When making the report, report only what is required by statute. Often, the information that is required to be reported is less than what the protective services agency may ask for. Reporting information beyond what is required by the mandated reporting statute could be a violation of state and federal confidentiality laws⁶.

In Colorado, an advocate must report only:

- The name, address, age, sex, and race of the child;
- The name and address of the person responsible for the suspected abuse or neglect;
- The nature and extent of the child's injuries;
- Names and addresses of the persons responsible for suspected abuse or neglect, if known;
- The family composition;
- The source of the report and name, address, occupation of the person making the report;
- Any action taken by the reporting source;
- Any other information that the person making the report believes may be helpful.

To summarize, optimal engagement with families experiencing co-occurring DV and child maltreatment requires domestic violence advocacy organizations and Child Welfare to each adhere to their unique role and regulations while also pursuing opportunities to share expertise.

⁵ Sandra Tibbetts Murphy and Jenna Yauch. *Domestic Violence Programs and Children's Records: Issues of Confidentiality and Release* (2009) Battered Women's Justice Project. Retrieved from: http://www.bwjp.org/files/bwjp/articles/Domestic_Violence_Programs_and_Children's_Records.pdf

⁶ Julie Kunce Field, Esq. *CCADV Privacy and Confidentiality Project Tip Sheet: Mandatory Reporting And Confidentiality*, (© 2010, distribution pending) The Confidentiality Institute.