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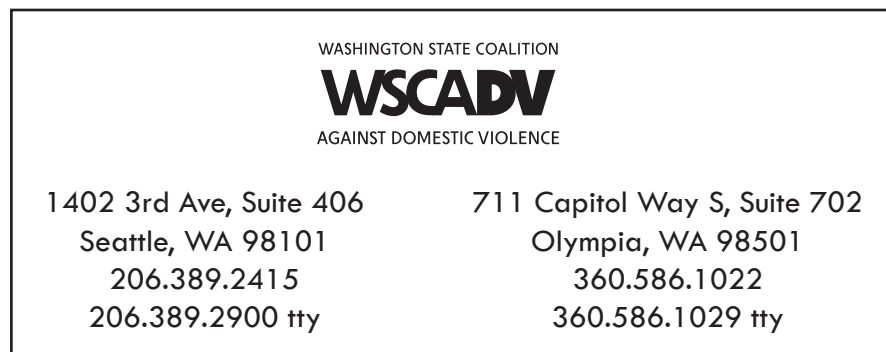
**Mandated to Service:
How to Best Serve Survivors
Who are Forced to Use Our Services**

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Introduction

Though this is a very serious subject, we would be making a big mistake to start off on too serious of a note. Rather, let's celebrate. Think about this. We never seem to take the time to acknowledge and celebrate the victories we've won. And I fear that by not doing so we are both depriving ourselves of a good party, and failing to pause, look around and notice that *things have changed* as a result of all of our hard work. We have had tremendous success over the past two decades getting the public to pay attention to domestic violence. So many more people are aware of domestic violence because of us, and because of all the media, talk show, and made-for-TV-movie attention we've stirred up. Lots of people can name the victim advocacy agency in their town or city. Many professions and agencies have seen the wisdom of taking on the issue of domestic violence. Many fields (medicine, religion, criminal justice, etc.) have formalized their commitment to addressing domestic violence by adopting policies or protocols for screening for domestic violence and referring people who disclose domestic violence to the services that can help them.

It is no surprise, then, that after years of harping on a variety of different systems to screen for domestic violence and refer victims and survivors to our agencies, people are actually doing that – in ever-increasing numbers. That's good.

And it's bad.

One unintended consequence of our success is that in their zeal to help, various agencies have taken to *mandating* people to our services, telling survivors, "You must go, or there will be a consequence."

Victim advocacy programs are founded on the core values of empowering victims and supporting survivors' autonomy and their right to self-determination. We understand that creating safety is a complex undertaking for victims. Given all this, we can see that *mandating* survivors to our services is clearly taking a good thing too far.

So, what can we do when outside agencies persist in telling people they have to come see us? What follows is a preliminary analysis of the main issues surrounding this question and the first of hopefully several publications to outline ideas for resolving the problems inherent in serving people who come to us for services because they have been ordered to do so.

In the following publication, you will have opportunities to

- Clarify your own values and beliefs about the practice of victims being mandated to services;
- Get rock solid in your understanding of what confidentiality means; and
- Engage in a three-step process to come up with your own best practice related to serving people if they are mandated to your services by others in your community:
 - *Step 1* - Inventory and critique your current agency policy and practice.
 - *Step 2* - Reaffirm or revamp your agency policy and/or practice.
 - *Step 3* - Think about how you can effectively interface with other agencies in order to carry out these policies and services.

Clarify your own values and beliefs about the practice of victims being mandated to services

This is always an important task when we pause to think critically about any issue – whether as an administrator of a program or a direct service provider. We have to ask ourselves: “What are my personal experiences that inform me about this issue and how do I get clear about how my personal feelings, values and motivations impact my day-to-day work with survivors?”

Because our experiences and values influence how we perform our work, we cannot skip this part or we risk doing our work unintentionally. As advocates, we always want to strive to do our work with purpose and on purpose. Please, take a few minutes to answer the following questions. You may wish to convene a small group to discuss.

What is your personal opinion about domestic violence survivors being ordered to come to domestic violence services?

What are the ways you respond, or what do you think, when a victim exercises her autonomy and self-determination (two of our core values) but you feel she’s compromising her safety (another cornerstone of our work)?

How does it feel to support someone to make her own choices, even when you sincerely believe (or know) those choices are wrong, misguided, or dangerous? Do you feel scared, frustrated, guilty, mad, anxious, calm, resolved?

What support do you need, either personally or in your work life, to wholeheartedly support survivors’ choices?

What, if any, personal experiences have you had being ordered (that is, as an adult) by courts or other institutions/agencies to attend or complete an activity?

Was it a good experience? Bad? Mixed?

Have you ever been threatened with or actually suffered a consequence of not following through with something you were ordered to do?

As an advocate, have you ever made a report about a victim to another agency against that person’s will (e.g., report to a mental health professional about someone you feared was suicidal)? If so, what were the circumstances? What was the outcome? How did you feel?

There are no right or wrong answers to these questions. Please keep your answers in mind as you work your way through the materials in the remainder of this publication. Think and re-think your own attitudes, values and life experiences as you explore the complex issues related to domestic violence victims/survivors being mandated to seek domestic violence services.

Get rock solid on confidentiality

Clearly understanding the many issues surrounding confidentiality will help you navigate the largely uncharted waters around mandated services. Confidentiality comes up often enough any time a survivor is involved with another agency, but when that survivor is mandated to attend

services at your program by an outside organization, you can be sure that at some point, someone at that agency is going to want to talk to you about what is going on with their client.

That's a lot of pressure. Pressures you face, and face down, every working day. If you are a new advocate, or an experienced advocate whose resolve is strained, let's take a hard look at the bedrock values.

In the absence of a signed, dated and specific release of information, don't tell anyone else (no matter who they are, who they say they are, or how they threaten you or their client) any part of a victim's story or anything about her, without understanding the *ethical issues*, the *legal ramifications*, and the *practical consequences* of doing so.

For a comprehensive overview on confidentiality, read the publication *Model Protocol on Confidentiality When Working with Battered Women* (available at www.wscadv.org). Please take the time to study this document, as we will not be reiterating here the critically important legal information about confidentiality and the personal and agency consequences of breaking confidentiality covered in that publication.

Reality DV

There are the laws and rules that dictate how you are required to operate – and then there is reality. Even if you are rock solid about the laws and rules you must operate within, when you interact with other community agencies, you experience lots of different pressures to break the rules. It's unavoidable. That's why we want to talk more pragmatically about why you might be tempted to talk too much, particularly when you have a lot of contact with outside agencies and they are mandating their clients to go to your services. These dilemmas can fall into three broad categories.

You want to cooperate and be seen as a team player in your community

As more and more agencies and disciplines have seen the value of understanding domestic violence and effectively serving victims and survivors, it's only natural that increased contact would invite confusion about the boundaries of confidentiality. A typical scenario might sound something like:

Social worker at X state or county service: "You said you provide this support group and that you want us to refer people to your agency. Well, it's as clear as day that this woman is having a terrible time with domestic violence, but she keeps lying to us about it. We told her she has to go to your support group. We'll want to know how she's doing in your group so we'll know how to proceed with her case."

If you have had conversations like this, you know they are problematic for several reasons. At a minimum, you want to build bridges with social workers so that you can work over time to help them learn much more about domestic violence and about your agency and the services you provide.

In order to avoid succumbing to the pressure of disclosing too much information, the first thing you

need to do is get solid in your own understanding that you are a team player ... *on the domestic violence team*. Not to lean too heavily on a sports analogy, but a lot of sports have teams where different players have different jobs – and when the team is playing well, everyone is doing their distinct job very well. The same is true for the domestic violence team. Your job on the team, as a victim advocate, is as distinct and critically important as the social worker's job. And it is here that our sports analogy falls apart, because the deadly serious nature of the work we do makes it anything but a game.

If you are not completely sure about your identity as a domestic violence victim advocate – providing advocacy-based counseling and other victim-centered services – now is the time to review materials on that subject. A domestic violence victim advocate is not a social worker, case manager, attorney, police officer, doctor, judge, court clerk, 911 operator, clergy member, sister, mother, neighbor, co-worker, and so on. Your job, as an advocate, is to understand all these other jobs, not do them. You broker the relationships between each victim/survivor and the individuals and systems she or he chooses to or is forced to interface with. By broker, I mean help a victim understand and negotiate each of those systems and relationships as she sees fit, and, within the framework of available or pragmatic options, on her own terms.

If you are not clear about your role as an advocate, then you will be especially vulnerable to making mistakes about confidentiality when others apply pressure on you to disclose information about victims/survivors which you have not been given specific and written permission to disclose.

You need to have confidence that your role as the victim advocate on the team is a vital role, and that you should project – and protect – your role in such a way that people will want to understand why you are not going to casually share information.

You don't want to get a victim or survivor into even worse hot water

In this next scenario, you are threatened by the threat to a victim. It goes something like:

“You said you had a ten-week support group and my client said she wants to go. She has ten weeks to resolve her issues with domestic violence before I send her off to ... [meet our next requirement]. She has to complete the group or [we will impose XYZ consequence on her]. I'll need verification of her participation.”

Or:

“We're sending this lady to your group. She has to stay away from that guy, or we're going to take her kids away. We'll need proof that she's attending group and not back together with him.”

Who among us wouldn't be upset at the thought that we had anything to do with a domestic violence victim “losing her kids” or having her public benefits taken away or any number of other dire consequences? So it's understandable that you might be tempted to break confidentiality to assure someone like a welfare or CPS worker that a woman is complying with their requirements.

Again, this is a role clarification issue. Your role, as a domestic violence victim advocate, is not to regulate victims/survivors, nor to rat on them, nor to protect or rescue them. Providing victim-

centered advocacy requires you to work with the victim/survivor directly to hear from her what is most helpful. Counseling a victim that she does not have to succumb to pressure to say anything to anyone if she does not want to, and helping her sort out if, when, how and to whom she wants to speak, are critically important roles for a victim advocate.

You are on solid ground speaking or writing on a victim's behalf when you:

- Listen very carefully to them,
- Outline all the available options,
- Listen carefully to their concerns and what they decide to do,
- And, only if you are asked by her or him to speak or act on her/his behalf, follow the rules to get a signed, dated, time limited and specific release of information.

You don't want to get your agency into hot water

A threat could come directly at your agency, as in the following scenario:

"If you won't tell us what's going on with the women we send to your groups, we're just going to have to stop referring people to your services."

Or even more directly:

"We are doing an investigation [CPS, law enforcement, welfare fraud, etc.] and the law says we have the right to know what you know. If you don't tell us, we'll have to take further action against you."

It is, at times, difficult to maintain your composure when people say things like this. On the one hand, you might panic, break confidentiality and blurt out the information the other professional is seeking. On the other, you may cross your arms, glare back and dig in, claiming you can't tell anyone anything under any circumstances. When other agencies threaten you, it's a clear signal that there is a deep misunderstanding about your role and about your services. But we encourage you to neither crumble and babble, nor dig in and fight.

If you have the time and composure to explain it to them, most other professionals can see the wisdom of you safeguarding your victim advocacy role. If you lack either time or composure, it's time to call other resource people in your agency – including other advocates, more experienced advocates, agency administrators, and/or the agency director.

Unfortunately, as public services like welfare and CPS get squeezed more and more, they could become more authoritarian with their programming and demanding in their relationships with other service providers in their communities. Although we can understand that the pressure that other workers are under to outperform and overproduce causes them to say things like "you have to tell us." We do not have to comply. Nor do we have to get particularly overexcited about it.

Reality Respect – A Final Word on Confidentiality

The bottom line is you are a domestic violence victim advocate and no matter how many outside agencies you interact with, your work will always come back to focus on and be driven by domestic violence victims/survivors. We have so much to lose when we let others bully us into breaking confidences, or when we become mechanical or unintentional over time about our role.

From a survivor's point of view, when we lose sight of our vital place as victim advocates, we become indistinguishable from other authoritarian or unhelpful systems. This may jeopardize the chance that a victim would continue to use our services, or it could eliminate us in the future from what a victim counts among her options. This, in fact, might be the most long-lasting and profound consequence of violating a trust, a confidence.

Maintaining confidentiality is the cornerstone of our profession and trust is a value we earn and must be ever vigilant to safeguard. That doesn't make it easy. Read on.

Engage in a three-step process to come up with your own best practice related to serving people mandated to your services

Step 1 Inventory and critique your current agency policy and practice

Take the time to research what your agency has in the way of written policy or procedure about providing services to people who are mandated to attend, and talk to direct service advocates if you don't already know the full range of current practice.

Does your agency provide services that other agencies order their clients to attend?

If no, why not? (Does your agency have policies that expressly reject mandated referrals from outside agencies or do outside agencies never refer people on a mandatory basis? Or do you not know if people are coming because they are ordered to? Or is it just that no services in your community mandate clients?)

If yes, what services do you provide and from what agencies do you receive referrals?

Are survivors being ordered to your services to solve the perpetrator's problem? In other words, is the survivor being held accountable for the actions of the perpetrator because the outside (referring) agency won't use the authority they have to hold the perpetrator accountable?

If you provide required services to people, have you ever solicited feedback directly from survivors about their experience of being required to come to you?

If you do offer services for mandated attendees, how easy is it for participants to use your services? Is transportation to and from your services an issue? Do you offer childcare, food, materials, incentives, and other supports? Are the services offered frequently? Or is there a time delay or wait list?

The next question is speculation on your part, but if your agency provides services for survivors who are mandated, do you think survivors would continue to use your services if they were not

mandated?

How do you distinguish your own agency from the referring agency, so it is clear to the participants that it is not you requiring their attendance?

Do you sign attendance sheets or communicate with outside agencies to verify a survivor's attendance or "progress"? What information do you share and under what circumstances? Do you transmit the information to the referring agency, or does the attendee?

Do you ever report to a referring agency that a survivor did *not* attend or did *not* access your services?

If you "report back" to outside agencies, do survivors always sign releases of information? Are your releases specific, and time limited? Or do you use generic and broad releases with no specific expiration date?

Is signing a release completely voluntary? If so, have you ever had anyone refuse? What would an advocate's response be if a victim refused?

If a victim refuses to sign a release back to the referring agency, does that mean you won't provide the service? (OR: Are some of your services contingent on the victim signing the release of information back to the referring agency?)

Does your agency get paid by the referring agency to provide mandated services or classes?

Discussion - To Do or Not to Do?

Clearly, this is a very tricky issue.

It is almost overwhelming to imagine taking on educating all the workers in all the agencies you are collaborating with about the right way, *and the wrong way*, to offer a referral to your agency. It may be unrealistic to imagine that we can talk everyone out of *requiring* their clients to use our services.

Given that some services or disciplines are more prescriptive than our own (e.g., services with lots of rules, like welfare; disciplines like substance abuse treatment that are more directive; or institutions that are set up to literally tell people what to do, such as the courts or CPS), our collaborative efforts have unearthed a culture clash that we can't hope to overcome by simply passing a "one size fits all" policy.

To complete the task of muddying the waters, some domestic violence survivors have told us that when they were forced to attend a class, they found a service that was helpful to them that they never would have found if it had been left up to them to attend. Some women report that they are really glad someone made them go! Many survivors themselves report that they are not opposed to mandatory attendance.

Given all these complexities, it's probably safe to conclude that the jury is still very much out on the question of whether a victim-centered advocacy program should ever offer a service

that a person would be ordered to go to by an outside agency. On the face of it, compulsory attendance flies in the face of our foundation values around autonomy, self-determination and empowerment. Add to that the impossibility of measuring a survivor's "progress" or "success" to an outside agency's standards. This issue should be more widely debated and discussed – locally, statewide, and nationally – among victim advocates. Especially as more and more practitioners from other disciplines see the wisdom of understanding and effectively dealing with domestic violence, the urgency of this issue is only bound to increase, not subside.

Step 2 Reaffirm or revamp your agency policy and/or practice

Let's do the best we can to square all these complex issues with your agency's policy and practice.

In day-to-day practice, the complex questions of serving mandated clients can be refined to make them more manageable. A service-by-service decision point is one place to start. Let's look at two hypothetical examples of services you probably provide and think about the pros and cons of accepting mandated referrals to each of these services. You can take it from there if you want to analyze any other service you provide.

Example 1: Mandating services before a protection order can be dropped

Many community-based programs provide *groups or mandatory counseling for women who want to drop a protection order*. Some judges, understandably frustrated at seeing the same people before them over and over again or faced with the prospect of dropping an order of protection for someone who is very clearly in danger, have resorted to mandating women to attend classes or get counseling before they will agree to drop the order. Though we can be sympathetic to a judge's desire to protect people within the court's purview, judges who do this do not understand the terrible jeopardy they may be putting a victim in by delaying dropping an order. We know that batterers bully, beat and threaten victims and their children when victims get protection orders. Some batterers believe it is within the victim's power to drop the order. When she cannot, horrible scenarios can emerge.

Given the very real safety concerns that emerge for domestic violence victims when courts mandate services that delay dropping an order, it is reasonable for a victim services program to refuse to provide this service to the court. In so doing though, the program takes on the tough job of explaining this to the court and working diligently to see that the court discontinues the practice, and understands why this is a wise thing to do.

Example 2: Allowing victim services to count for mandated activities

If a victim were allowed to *count things like support group or economic literacy or parenting classes as their WorkFirst activity* and thus take advantage of family violence provisions in welfare, it would not necessarily be an unreasonable compromise for your program to provide this service. As benign as this may seem, you would still need to proceed with caution. You would want to keep

a very close watch on whether the people who were attending were really coming of their own free will, and that there truly were no safety concerns related to the survivors accessing your services. Additionally, there is no getting around the fact that with mandated attendance comes a reporting requirement, and this poses the risks to confidentiality discussed above.

All referrals from the local welfare office are not created equal. As pressures mount on victims to get off assistance, more requirements are imposed to “make progress toward resolving their issues.” Uninformed welfare (as well as CPS) workers translate this into “leave your batterer” and impose this in subtle and not so subtle ways. As victim advocates, we know that leaving one’s batterer is often not a goal for the victim. Deciding if, when and how to leave must be left completely in a victim’s control. If you have people coming to your shelter or otherwise accessing your services because they have been pressured by DSHS workers to leave their abusers, it is critically important to engage in concentrated systems advocacy and education to deter workers from doing this.

As a final point, in practice, victim services programs need to be constantly monitoring themselves to make sure victims are not confused about who is imposing requirements. There is a line victim services agencies cross when they, and not the outside entity, are requiring attendance. If you ask, survivors will tell you when you have crossed that line. Advocates need to constantly monitor themselves to make sure they are not unintentionally – or intentionally, for that matter – taking on an authoritarian, policing or rescuing role.

Step 3 Think about how you can effectively interface with other agencies in order to carry out these policies and services

Offer services for mandated clients on purpose – If an agency wants to mandate their clients to your services, work directly with them to openly and intentionally discuss what they want to do. Take some time to discover common ground and decide if you want to provide the service and accept their mandated referrals. Write down referral agreements. If there are overriding safety problems, figure out a better way to provide your services that does not include mandated referral. Practice negotiating, writing and monitoring a memorandum of understanding (MOU) to put in writing what you will (and will not) do and what the other agency agrees to do (and not do).

Offer service once on a mandated basis – If you decide to offer services to which people will be mandated, it may not be a bad idea to impose a “one time only” rule. That is, an outside agency is welcome to send someone on a mandated basis once. You would then be much more free to make it clear to the person who came to you that you are not requiring participation, and future participation in the services your agency provides are completely voluntary.

Confidentiality is confidentiality – In your negotiations with outside agencies, you must stress to them that you can not, under any circumstances, tell them anything about a person they send to you, without that person’s permission. This includes not telling the agency that a person did or did not come. Yes, that’s right. Confidentiality does not only apply to the people you do have contact with. It applies to all your communication – and in this case, to your lack of communication. In a mind-bending concept, you need to figure out a way to explain to outside agencies that just

because you cannot tell them whether a person came to your agency, does not mean that they did not come. Workers in other agencies are under tremendous pressure to prove, with their numbers, that they are referring people and those people are getting services and are making changes. Remember, it is their job to gather and support those numbers, not yours. You are accountable to survivors – not to any outside system.

Confidentiality is still confidentiality – As an advocate doing day-to-day work with victims and survivors, it is very easy to lose sight of our core values around confidentiality, privacy and respect. Take the time to train and re-train advocates on confidentiality – offer refreshers and talk about core values and principles around privacy and respect. Nurture an agency environment that values honoring people’s trust and respects their privacy. Model confidentiality and monitor it.

Reporting back – What you will and will not tell outside agencies about a person’s participation in your program is a critical piece of the negotiating that directors and administrators need to do with any outside agency that wants to send mandated clients. A well-negotiated memorandum of understanding includes enough details about reporting and releases of information (including a copy of a blank form from the victim services agency that will be used) to guide any direct service advocate with their everyday work. Too often, individual advocates are left to their own devices to decide who to release information to. With increased use of computer technology, there is way too much information being logged into automated systems. We are not being intentional and thoughtful as advocates about this and there may be untold consequences to victims and survivors of our thoughtless compliance with reporting requirements. Most notably DSHS and HUD house problematic automated systems at this time, but it is inevitable that other agencies will go online in the future.

Offering generic descriptions of the services you provide – It may be possible to get around reporting details of an individual’s participation in your program if you provide referring agencies with good descriptions of the service in general. For example, if you are doing an economic literacy class to which people are being mandated, you can give the referring agency a complete curriculum, workbooks, class schedule and list of speakers and not give them week-by-week “progress reports” for the person they referred with specific details like what that person learned, said, did or “accomplished.” A general description of other services should suffice as well. If you get specific with information about your services – lesson plans, philosophy of your support group, sample topics covered, etc. – this can assure other service providers about what you do and how you do it, and can avert the need for them to seek detailed information about a specific individual’s participation.

Build it, and they will come – When the services you provide are top notch, attractive, easy to get to, well supported (childcare, transportation, food) and – dare we hope in some cases like parenting classes or economic literacy groups – fun, people flock to them. You will need to do some soul searching if you have high attendance at a group or class simply because the attendees are required to be there.

There is room for improvement in every one of our programs and there are ways to learn great techniques and skills from individual advocates and programs that have highly attended services with enthusiastic reviews from the survivors who use those services. Seek out other programs if you need help and travel to other areas to sit in on groups or services. We can always learn from one

another.

A threat is just information – Earlier, we discussed outside agencies threatening clients (“You must go to this domestic violence service or else something bad will happen to you”) and threatening your agency (“If you don’t tell us what is going on with the clients we send to your agency, we won’t make any more referrals to you”). When direct service advocates come to their director and report that a service provider from an outside agency has threatened them, directors must do something about it. This is not to say over-react. Rather, proactively engage the other agency in a constructive dialogue about the problem and work toward coming to mutually satisfactory conclusions. This may take time, patience, good negotiation skills and maybe outside help (WSCADV is available to offer assistance, for instance). But too often, individual direct service advocates are left to their own devices to solve what really is larger agency-to-agency discord. It is the job of the agency director or administrator to create and monitor inter-agency agreements. When this key task is done well, ongoing service delivery goes much more smoothly and survivors are much better served.

One Final Thought

This is a challenging issue. We know that you are concerned about mandated services and that you have given it a lot of thought yourselves. WSCADV is committed to continuing to work on this issue. Call or email us anytime if you want to discuss or problem solve. We’re all in this together. Keep up the great advocacy work you’re doing and let us know how it’s going!