SUBPOENAS

Subpoenas

- A subpoena is a court order either for an individual to testify or for an agency to produce records related to a court case.

- State law on privileged communication prevents DV advocates from having to testify in court about conversations with a survivor, and gives stronger protection for agencies to resist turning over client records. [see RCW 5.60.060(8)]

Subpoenas

- Even though state law is now stronger, your agency may still continue to be served with subpoenas.

- If a subpoena comes to your agency, know your office protocol and follow it. There should be a specific person (usually the director) who must receive all subpoenas and respond to them.

Subpoenas

- Sometimes a subpoena can be "quashed" (meaning it is invalidated and does not have to be followed), but in other cases some legal response must be made.

- It is helpful for your agency to have a lawyer who understands DV confidentiality laws and can assist with this process.

Court Orders – Existing Law

- If any of the agency's records have to be turned over in a court proceeding, there is an existing process in state law for how the records will be handled.

- It's called "*in camera* review," which means having a judge look at the records privately to see if they are indeed relevant to the court case before any information is shared more publicly as part of court documents.

Court Orders – Existing Law

- RCW 70.123.075: Client records maintained by DV programs shall not be subject to discovery in any judicial proceeding unless:
  - (c) The court reviews the DV program's records in camera to determine whether they are relevant and whether the probative value of the records is outweighed by the victim's privacy interest in the confidentiality of such records, taking into account the further trauma that may be inflicted upon the victim by the disclosure of the records; and
  - (d) The court enters an order stating whether the records or any part of the records are discoverable and setting forth the basis for the court's findings.