Office on Violence Against Women
Abuse in Later Life Program

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As a Result of This Training, Participants Will Be Better Able to:

- Define the relationship between privacy, confidentiality, and mandatory reporting
- Determine whether or not you are a mandatory reporter and your legal obligations
- Develop policies and practices to address mandatory reporting that minimize any unintended consequences to victims and promote autonomy and safety

Confidentiality and Privacy

Rebecca Henry
Deputy Chief Counsel, Commission on Domestic and Sexual Violence
American Bar Association
VAWA Victim Service Confidentiality Requirements

- **VAWA SEC. 3. NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.**
  - “(A) IN GENERAL.—In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.”

How Do I Protect Confidentiality and Privacy?

- You are prohibited from sharing personally identifying information about victims without "reasonably time-limited, written and informed consent...."
What Does This Mean?

- Personally identifying information

- Consent
  - Reasonably time-limited
  - Written
  - Informed consent

Mandatory Reporting of Elder Abuse or Abuse of Vulnerable Adults
**Elder Abuse Mandatory Reporting Flow Chart for VAWA-funded Victim Service Providers**

- **Are you a “mandatory reporter?”**
  - Review your statute to determine whether it mandates reporting and if you must report. Pay attention to the particular requirements. Inform an older victim at the outset if you are mandated to report.
  - No

- **Is the victim someone about whom abuse must be reported?**
  - Does the victim meet the age threshold in your statute (e.g., 55, 60 or 65) or definition of “vulnerable” or “at risk” adult?
  - No

- **Has the victim experienced “elder abuse” as defined by statute?**
  - Yes
  - No

- **Are you exempt from reporting in this case?**
  - For example, is the information protected by an attorney-client or advocate-victim privilege that would prohibit disclosure without victim consent?
  - No
  - Yes

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**Report Must Be Made.**
Make the report to the appropriate agency.
If there is a choice between agencies, discuss the options with the victim. Ensure you are reporting only what is required, and that you are complying with VAWA or other federal confidentiality requirements.

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Remember to safety plan and offer the victim ongoing support.

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**Challenges and Unintended Consequences to Mandatory Reporting**

- **National Clearinghouse on Abuse in Later Life**

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If You Are a Mandated Reporter…

- Create clear policies for mandatory reporting in your agency
- Alert victim at the onset of services
- Invite victim to be involved when report is made
- Work with victim on a safety plan

Mandatory Reporting: Working with Victims

Alicia Aiken
Executive Director, The Confidentiality Institute
Summary

- Advocates must respect privacy and confidentiality within the legal limits of mandatory reporting laws.
- Advocates need to understand their legal obligations with mandatory reporting and confidentiality requirements.
- Creating policies and practices for mandatory reporting requirements can minimize any unintended consequences to victims and promote autonomy and safety.

Video Presenters

- Alicia Aikens
  Executive Director, Confidentiality Institute
- Bonnie Brandl
  Director, National Clearinghouse on Abuse in Later Life
- Rebecca Henry
  Deputy Chief Counsel, ABA Commission on Domestic and Sexual Violence
- Ann Turner
  Elder Victim Service and Advocacy Coordinator, National Clearinghouse on Abuse in Later Life
Thank You

- Special thanks to Terra Nova Films for the ongoing working partnership with NCALL and the beautiful video production
- [www.terranova.org](http://www.terranova.org)

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- Sign up for our enewsletter: [http://oi.yresp.com/?fid=03fcc93262](http://oi.yresp.com/?fid=03fcc93262)
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