



Best Practices for Serving Survivors of Domestic Violence (DV)

Joint Office of Homeless Services

Agenda



VAWA and Important Definitions

Baseline Privacy Requirements

Data Collection and Privacy

DV Survivor Considerations for CE Access

Implications and Resources

VAWA and Definitions

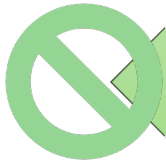
VAWA



The Violence Against Women Act (VAWA) provides certain protections for survivors of domestic violence, dating violence, sexual assault, or stalking, as well as to those who are affiliated with a survivor.



VAWA protections are not limited only to women but are available equally to all qualifying individuals regardless of sex, sexual orientation, or gender identity.



VAWA protections explicitly state that a program participant cannot be discriminated against on the basis of being a survivor of violence when they are otherwise eligible for services.



Participants may not be denied or terminated from housing services solely based on their protected class. CoC-funded providers are among those responsible for implementing these protections.

Protected Class Considerations

Participants may not be denied or terminated from housing services solely based on their protected class.

Examples of eviction notices that are linked to the DV:

- 1. Noise complaints**
- 2. Police activity**
- 3. Damage to the unit that occurs as a result of the DV**
- 4. Disclosure of Violence occurring on the property**

Examples of eviction notices that would be allowable despite DV:

- 1. Non-payment of rent**
- 2. Not passing an inspection**
- 3. Smoking in non-smoking area**
- 4. Having animal that is not allowed per the lease agreement (not certified)**

Definitions: Domestic Violence

For the purpose of Coordinated Entry, the CoC defines domestic violence for an individual as:

- dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual
- that has either taken place within the individual's primary nighttime residence, or has made the individual afraid to return to their primary nighttime residence;
- *and* the individual has no other residence;
- *and* lacks the resources or support network to obtain other permanent housing.

Definitions: Human Trafficking

According to HUD, DV includes victims of human trafficking.
For the purpose of Coordinated Entry, the CoC defines Human Trafficking for an individual as:

- exploitation of a person for the purpose of compelled labor or commercial sex acts
- that has either taken place within the individual's primary nighttime residence, or made the individual afraid to return to their primary nighttime residence;
- *and* the individual has no other residence;
- *or* the individual lacks the resources or support network to obtain other permanent housing.

Local Definition of DV

When one person or group of people is exerting power and control over another person-this can be physical, emotional, social, financial, or medical.

The local continuum:

- Supports survivors of DV, SA, Sexual Trafficking, and Stalking (all genders).
- Does prioritize DV within last 6 months for CA.
- Works with individuals who self identify and who wish to receive services based upon capacity.

Fleeing Domestic Violence, Dating Violence, Sexual Assault, or Stalking

When a household experiencing homelessness is identified as needing domestic violence (DV) services:

Immediately referred to an Access Point designated for survivors of domestic violence.

If the household does not wish to seek DV services:

Household will have full access to the Coordinated Access processes in place for youth, families with minor children, and adults unaccompanied by minor children.

DV Access Point determines household seeking DV services is not eligible for or cannot be accommodated with existing resources:

DV Access Point will refer the participant to an appropriate Access Point for youth, families with minor children, or adults unaccompanied by minor children.

DV vs. Other Housing Systems

- Our assessment does a great job of trying to get at the housing need and pointing to which system might best support a survivor.
- We try to do warm hand offs if the DV system is not the best choice.
- Please contact Freja.lyons@multco.us if a system lead has a question about someone being served in the DV system.



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Emergency Transfer

One of VAWA's protections is the Emergency Transfer:

- Allows survivors to move to another safe and available unit if they face an imminent threat of harm by remaining in their current unit.
- If a participant requests and is eligible for an Emergency Transfer, the housing provider should first attempt to move the participant to another unit within their program.
- If this is not possible, the participant will be prioritized for the next available and appropriate housing opening through Coordinated Entry.

Local Emergency Transfer



- If you learn of someone in a HUD funded unit becoming unsafe, please reach out to Freja for assistance and support around the process.
- DV system has provided TA for approximately 40 ET's.
- If a household has a subsidy and becomes unsafe, it can be less traumatizing to the household to try to preserve the existing subsidy in a safe unit than to try to start the housing process all over again in a crisis.
- This also allows new survivors to access the existing limited resources.

Baseline Privacy Requirements

Considerations...



Some Victim Service Providers (VSP) in the community have a more specific definition of Domestic Violence that impacts their eligibility criteria.



For any client identifying as fleeing or a survivor of DV, the provider must uphold all privacy and confidentiality guidelines and follow all policies and procedures related to DV survivors outlined in the Coordinated Entry Policies and Procedures.

Baseline Requirements & Standards

HUD requirements for CE process applies to VSPs and those serving DV survivors

- Required to follow the baseline HMIS privacy requirements for all methods of data collection, use, and disclosure, including electronic, paper and verbal disclosures

CoC's privacy standards should be communicated via:

1. CoC's Coordinated Entry Policies and Procedures; and
2. Privacy Notice

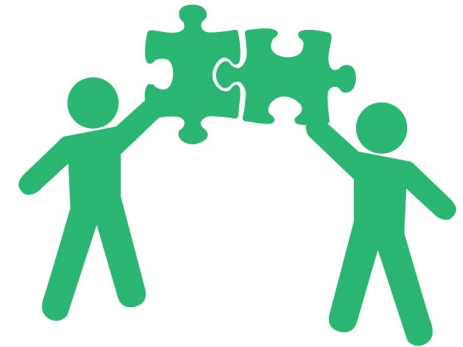
Reminder: CoCs (and providers within them) are prohibited from denying services to participants if they refuse their data to be shared, unless federal statute requires so as a condition of program participation (HUD Coordinated Entry Notice: Sections II.B.12.c and II.B.13)

Data and Comp Site

- The DV system does prioritize DV within the last 6 months due to lack of resources.
- We do have a comparable data base (comp site) that has coded names and birthdates.
- Access to the Comparable Data site is limited. Providers from other homeless systems cannot look survivors up in our system.

Survivor Empowerment

- The comp site has coded data for safety.
- We do allow survivors to opt out of answering any questions on the assessment as well as asking agencies to step out when a survivor does not wish to share their information with all 11 agencies.
- We do have ROI's that must be filled out for all information sharing-even with other DV partners.



Privacy Notice

A privacy policy should be made available to anyone that asks for it

- Must be posted on website (if program has one)
- Must include note that policy may change at any time, and changes may affect data collected before the change

Requirements:

- Description of participant rights
- Participant options
- Provider's responsibilities to protect PII
- How the provider will use and disclose the participant's information

Data Collection & Privacy

Non-DV Client vs. DV Client Data – CES Policies & Procedures

Non-DV Client	DV Client
Normal HMIS Profile	Comparable Database (comp site)
Baseline Data and Technical Standards	VAWA and additional data protection standards that override the “baseline”
General ROI for CES purposes	ROI (specific, time-limited) at every step of sharing PII
Consent not needed for sharing outlined in the Privacy Notice	Consent needed for any sharing of data, regardless of Privacy Notice

Data Collection Requirements



Data may be collected only when **appropriate** to services provided or **required** by law.



Consent to data collection may be inferred by the circumstances of the collection, which must include a notice that generally explains the reasons for collecting this information.



When required by law to collect information, providers are not required to seek participant consent. **Participants may refuse** to provide the information and still receive services, but the provider must ask.



In all circumstances, providers should make data collection **transparent** by providing participants with a written copy of the privacy notice.

Local Data Collection Requirements

- We do not require participants to disclose information they are uncomfortable sharing in order to access services.
- Upon intake with a DV agency households are provided with privacy policies and grievance policies of that agency.
- We also let survivors know when they sign an ROI that information may be inferred from them being a participant in the program(the agency info is on the ROI).
- We also disclose the potential for information to be mishandled once it is shared and the risk involved- we cannot take the information back.

Personally Identifiable Information (PII)

A provider must collect PII by **lawful** and **fair** means and, where appropriate, with the knowledge or **consent** of the individual.

The CoC Program Interim Rule Section 578.103(b) requires that records containing personally identifiable information (PII) are kept **secure** and **confidential** and the address of any family violence project not be made public.

Programs are required to keep PII that is **accurate**, **complete** and **timely**. Programs are required to dispose of or de-identify data in records that have not been in current use for 7 years.

Local client information protections

- Agencies keep all employee files in locked filing cabinet.
- Non employees are not left alone in filing cabinet room without locking cabinet and keys stored in a secure location. The room where the filing cabinet is kept is also locked when workers are not present.
- All of our confidential shelters use a PO Box for the mailing address and use confidentiality agreements for providers from sister agencies and survivors who stay on site.



PII (cont.)

PII must have some measure of accessibility.

- Programs must allow individuals to inspect and have a copy of any PPI about the individual. Must consider requests to correct or complete information on an individual (not required to change it at their request). Instead, they may mark the information as inaccurate or incomplete, and may supplement it with additional information.

Accountability for data collection.

- Programs should establish procedures for considering complaints, and staff should annually sign confidentiality pledges and agreements to follow the privacy policy.

Documentation.

- HUD requires that a CoC program participant provide appropriate documentation of the original incident of domestic violence, dating violence, sexual assault, or stalking, and any evidence of the current imminent threat of harm. Please see 24 CFR 578.103(a)(5).

Local PII

- All of our DV providers have a grievance policy for addressing participant complaints.
- All members who participate in CA meeting sign a confidentiality pledge and agree not to take information out of that meeting.
- We encourage transparency with why we collect data and allowing survivors to see what we are collecting- we can give them a copy of their assessment at any time.

Domestic Violence / Survivor Considerations for CE Access

VAWA & Data

Entry into the CES raises serious privacy concerns for those fleeing domestic violence.

- Legal confidentiality could be compromised by turning over information.
- A system that tracks people as they move from shelter to shelter would allow an abuser to locate a fleeing victim.
- Identifying or demographic information being leaked could allow for the leak of the identities of those seeking services in domestic violence shelters.

Implication: Risk to survivors if abusers gain access to the personal information of clients.

- Domestic violence advocates have noticed the phenomenon of "separation violence" -- meaning that an abuser is more dangerous and likely to lash out when a survivor is taking steps towards independence. Flight from an abusive home into a shelter is such a separation. Therefore, confidentiality is paramount.

Survivor considerations

- We know that leaving can be the most dangerous time for a survivor and the violence often escalates at this time.
- We also know abusers look for survivors in shelter. Our shelters phone response to anyone calling about someone looking for a participant is:
 - “I can neither confirm or deny that person is staying here. If you would like to leave a message, you are welcome to.”
 - This message is intended so that people calling all the shelters get the same message and cannot pinpoint a survivor at any location.

VAWA & Data (cont.)

Confidentiality of the data can be breached in various ways.

- The rules permit disclosures to oral law enforcement requests, which facilitates impostors pretexting the data.
- The technical standards do not require that data disclosures be logged, which limits the ability to track these impostors.
- Insider fraud in law enforcement agencies.
- Data is shared among other programs in the CoC.
- An insider in another program can thus also breach confidentiality innocently -- if they fall prey to pretexting -- or maliciously via fraud.

Local Data Considerations

- Anyone getting a request from law enforcement working at a DV agency in Multnomah County would elevate that request to their supervisor immediately before responding.
- We do have advocate privilege which is why these requests are given to program directors.

VAWA & Data (cont..)

De-identified data may still create risks that data collectors do not see.

- Though the clarification exempts submission of name, SSN and address, other universal data elements can serve to identify individuals, a birthday, zip code and gender may be enough to identify someone.

Identification via demographics could be even easier in certain contexts.

- In some small communities, a demographic description including gender, children's information, zip code, ethnicity and age may be able to identify an individual. They may not identify the individual to a statistician, or an employee of the program, but an abuser searching for their victim will know what patterns to look for.

Examples

- A family from Somalia with 6 children.
- A family with 3 sets of twins.
- A family or person that uses sign language.
- A family or person who uses a very specific language that is uncommon in the US.

VAWA & Data (cont...)

The baseline privacy standards permit data collection under a model of "inferred consent."

- The practice of inferring consent to data collection means that domestic violence survivors will be giving up data in fear that if they do not, they will not receive shelter, and thus their data will be entered into the HMIS.
- VAWA 2005 included changes to the collection of data from domestic violence service providers for HMIS.
 - e.g., Survivor PII cannot be entered directly into HMIS.
- **Based on VAWA, PII can only be disclosed if:**
 - (1) When the victim provides written, informed, and reasonably time-limited consent to the release of information ("a release")
 - (2) When a statute compels that the information be released
 - (3) When a court compels that the information be released.

VAWA & ROIs

With a signed ROI from a survivor, what information can a VSP share with the COC? (Continued on next slide)

- A VSP may share personally identifying information of a survivor if it has obtained consent from the survivor. The consent must be informed, written, and reasonably time-limited. This requirement is provided in both VAWA 42 U.S.C. § 13925(b)(2) and FVPSA 42 USC §10406(c)(5). The language in both statutes parallel one another.
- This release of information is distinct from the ROI used for other clients. VSPs must obtain consent from the client when sharing their PII instead of using a blanket ROI to share their information anytime. It is best practice to obtain a new ROI when new information is being shared or information is shared with a new agency.

VAWA & ROIs (cont.)

With a signed ROI from a survivor, what information can a VSP share with the COC? (Continued from previous slide)

- The consent must be informed. This means that the VSPs must let the client know what specific information is being shared and the method for sharing the information (e.g., email, phone, dropbox, etc.). By sharing the method of communication with the survivor, they are made aware of the risks associated with each method. Survivors may choose to allow one method and deny another based on their comfort level.
- The consent must be reasonably time-limited. The ROI should have an expiration date. What is reasonable will depend on the specific circumstances. In general, a release should not be more than 15-30 days. The survivor may authorize that the release is extended.

DV ROI's

- We recommend single use ROI's.
- Only the exact items mentioned in the ROI can be discussed.
- A second meeting between providers needs a second ROI unless the timeline is covered.
- If ongoing services require a longer ROI, we still recommend keeping to 2 weeks to a month.

DV ROI's

- Survivors go over the ROI with an advocate and the survivor checks the boxes for how the information will be shared (in person, email, fax, telephone).
- All ROIs are dated and can be revoked at any time upon the survivor's request. If this happens, we cannot take back what has already been shared.

Implications for VSPs and Additional Considerations

VSP Implications

DV providers are prohibited from entering PII into HMIS

- They use the comparable database (comp site).

DV survivors must have SAFE access to the coordinated entry process.

- May be through a separate access point and assessment tool
- Safety and confidentiality are essential when sharing data or referring clients
- All data use and disclosure policies and procedures should be developed to ensure that regardless of where the household fleeing domestic violence presents for service, safe and equal access to homeless services and housing programs is provided while protecting their information.

NNEDV resource: <https://nnedv.org/mdocs-posts/coordinated-entry-confidentiality-requirements-in-practice>

Key Rules, Regulations, and Privacy Fundamentals

- [HUD HMIS Data Technical Standards](#)
 - Establishes standards for collecting, using, and disclosing data in HMIS
- [Violence Against Women Act](#) (VAWA), [Family Violence Prevention Services Act](#) (FVPSA), and [Victims of Crime Act](#) (VOCA)
 - VAWA contains strong, legally codified confidentiality provisions that limit Victim Service Providers from sharing, disclosing, or revealing personally identifying information (PII) into shared databases like HMIS
- [Serving survivors through Coordinated Entry](#)
 - Safe and confidential access to the CE process
 - Safety planning
 - Emergency transfer services
 - Trauma-informed care
- [Health Insurance Portability and Accountability Act](#) (HIPAA)
 - Governs how health care providers, health care clearinghouses, and health plans disclose data
- [Privacy Act \(5 U.S.C. 552a\)](#)
 - Requires written consent to disclose client records

Resources

- [HUD CE Management and Data Guide \(See chapter 2\)](#)
- [HUD's VAWA Notice](#)
- [Privacy and DV Survivors](#)
- [Coordinated Entry \(CE\) and Victim Service Providers FAQ](#). This FAQ responses to questions about the coordinated entry process and how it relates to victim service providers for CoCs.
- [Coordinated Entry Process FAQ: A Resource for Domestic Service Providers](#). This FAQ has been developed by the Domestic Violence and Housing Technical Assistance Consortium to respond to questions received from domestic violence service providers regarding CE.
- [NASH: Safety and Coordinated Entry with Domestic Violence Survivors](#). Presentation from the National Alliance for Safe Housing that reviews the federal requirements for coordinated entry related to serving survivors of domestic violence.
- [DVHTAC Presentation: Coordinated Entry, What DV and SA Programs Need to Know](#). Presentation that reviews: the federal requirements for CES related to serving survivors of domestic violence; the types of CE, including parallel DV CE; shares resources; and discusses how to ensure safety and confidentiality for survivors accessing CE.