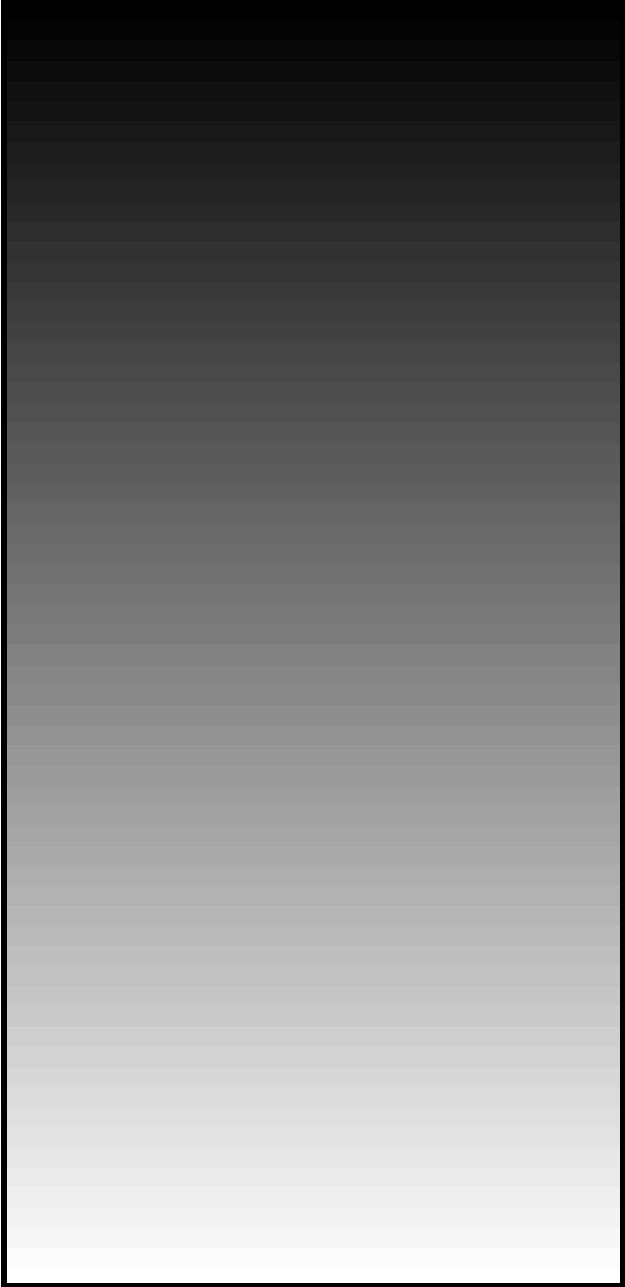


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## Legal Assistance for Victims Grant Recipients' Policy Guidebook

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**Fiscal Year 2002**

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## ***INTRODUCTION***

The Legal Assistance for Victims Grant Program (LAV), authorized in the Violence Against Women Act of 2000, funds projects that address the legal needs of victims of domestic violence, sexual assault, and stalking. LAV funds 235 projects throughout the United States and territories. Grant recipients include domestic violence victim service agencies, sexual assault victim service agencies, nonprofit legal service organizations, bar associations, law school clinical programs, and *pro bono* attorney programs. The diversity among LAV grantees results in a host of programs providing highly varied legal services. The Office on Violence Against Women (OVW) developed this Guidebook to enhance delivery of quality comprehensive legal services to victims of domestic violence, sexual assault, and stalking.

The following pages contain promising practices for victim service agencies and legal service providers addressing domestic violence, sexual assault, and stalking. This edition of the Guidebook updates the earlier edition in light of new language authorizing the LAV program in VAWA 2000. Every grantee is required to adhere to the LAV statutory language, and OVW strongly encourages grantees to implement, to the extent possible, the additional protocols contained in this Guidebook. Grantees may tailor these protocols to suit local needs.

Our hope is that this Guidebook will be a valuable resource for your office. Please contact the Office on Violence Against Women at (202) 307-6026 for further information.

## ***MINIMUM REQUIREMENTS***

By statute,<sup>1</sup> all grant recipients must certify to the Attorney General that:

- any person providing legal assistance through a program funded under (LAV) has completed or will complete training in connection with domestic violence or sexual assault and related legal issues;
- any training program conducted in satisfaction of the requirement of the paragraph above has been or will be developed with input from and in collaboration with a state, local, or tribal domestic violence or sexual assault program or coalition, as well as appropriate state and local law enforcement officials;
- any person or organization providing legal assistance through a program funded under (LAV) has informed and will continue to inform State, local, or tribal domestic violence or sexual assault programs and coalitions, as well as appropriate State and local law enforcement officials of their work; and
- the grantee's organizational policies do not require mediation or counseling involving offenders and victims physically together, in cases where sexual assault, domestic violence, or child sexual abuse is an issue.

In addition, OVW requires grantees to:

- *Provide comprehensive legal services to sexual assault, stalking, and domestic violence victims.*

Services should include representation and/or referral for emergency and nonemergency protective order hearings and other legal matters arising as a consequence of the abuse or violence, including family, immigration, administrative agency, or housing matters, protection or stay away order proceedings and other similar matters.

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<sup>1</sup> Pub. L. No. 106-386, Sec. 1201, 114 Stat. 1464, 1503-1505, *codified at* 42 U.S.C. 3796gg-6. Please note that for FY 2001 grantees a special condition in the grant award package requires grantees to address the certification letter to the Assistant Attorney General and submit it to OVW.

## ***ACTIVITIES THAT MAY COMPROMISE VICTIM SAFETY***

Victim-centered, holistic legal services are critical to ensuring safety and stability for sexual assault, stalking, and domestic violence victims. Experience has shown that certain practices compromise victim safety and fail to hold perpetrators accountable for their criminal behavior. To enhance victim safety and hold perpetrators accountable, **applicants are discouraged from proposing any of the activities listed below:**

- *Mediation<sup>2</sup>, alternate dispute resolution, or joint counseling as a response to domestic violence, sexual assault, or stalking.* Mediation implies that both parties are responsible for the perpetrator's violent behavior, a message that blames victims and fails to hold offenders accountable for their crimes. Mediation also presumes that both parties have equal power and can negotiate a mutually agreeable settlement. Where there is domestic violence, sexual assault, or stalking behavior, however, one party has controlled the other through sexual, physical, emotional, and/or economic abuse. Even the most skilled mediator or therapist cannot shift the balance of power when one party has abused or assaulted the other, making mediation and joint counseling dangerous and ineffective in such cases.
- *Policies or practices that discourage accepting cases for victims who do not have physical evidence.* A thoughtful analysis is required when making a determination as to whether a person seeking services is a victim of domestic violence, sexual assault, or stalking. The absence of physical bruises, court records, police reports, and/or medical records does not mean that the applicant seeking services is not a victim. Offenders often threaten and isolate victims to deter them from seeking any outside assistance or cooperating with prosecutors. Consequently, records or other written documentation substantiating the abuse may not exist.
- *Refusal to represent victims who are also respondents/defendants.* Domestic violence, sexual assault, and stalking victims are sometimes named as respondents or defendants in civil or criminal cases, as a result of improper dual arrests, mutual protection orders, or retaliatory law suits. Screening procedures should be based on an evaluation of the applicant's

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<sup>2</sup>By statute, mediation is prohibited. See page 5 herein.

entire history rather than solely on the existence of pending criminal charges or civil protection orders.

- *Representation on the condition that victims seek protection orders, counseling, or some other course of action with which they disagree.* Victims are in the best position to know what actions could increase or jeopardize their safety. Legal service providers should offer options to clients and information about possible legal remedies and available social services. Imposing uniform remedies might compromise victim safety or recovery.
  
- *Failure to conduct safety planning with clients.* Attorney and non-attorney project personnel must routinely review safety planning options with clients. All project personnel must be aware of the risk of future harm that many victims seeking help experience. In addition to helping the victim assess options, the development of comprehensive safety plans with clients is critical.

## ***SCREENING FOR DOMESTIC VIOLENCE, SEXUAL ASSAULT AND/OR STALKING***

- Establish eligibility for services first by checking for conflict of interest.
- Inquire as to what kind of help the prospective client is seeking.
- Do not expect prospective clients to self-identify as victims of domestic violence, sexual assault, and/or stalking. Victims often state that they need assistance with child support or some other economic issue. Sometimes they state that they want information related to divorce and custody.
- An intake counselor/legal advocate/attorney must gently ask questions to learn about a prospective client's experience with domestic violence, sexual assault, and/or stalking.
- When evaluating a prospective client's case, do not rule out the possibility of domestic violence, sexual assault, or stalking because the victim lacks proof of physical injury, did not call the police, declined medical attention or never initiated court action previously. Although the existence of these factors corroborates domestic violence, sexual assault and/or stalking, their absence does not necessarily indicate that a client's claims lack credibility.
- Victims of domestic violence, sexual assault, and stalking often try to forget the violence that was perpetrated against them. Victims may need help to recall the nature of the violence, the chronology, or the number of incidents of violence perpetrated against them. To gain the fullest understanding of the victim's situation, identify legal issues and determine eligibility for services, allow the victim to describe the incident(s) and then ask for details. The more details that a victim can remember and relate consistently, the more likely the victim will be deemed credible by the court.
- The fact that a person seeking services was arrested and/or is named as a respondent or a defendant is not dispositive on the issue of whether the person is a victim of domestic violence, sexual assault, and/or stalking. (See *Activities That May Compromise Victim Safety*, p. 6).



***PRACTICES WHICH ENHANCE THE SAFETY OF THE VICTIM, ASSIST THE VICTIM TO ESCAPE AN ABUSIVE RELATIONSHIP, OR ENHANCE THE VICTIM'S ABILITY TO REMAIN INDEPENDENT FROM AN ABUSIVE FORMER PARTNER***

**Medical Needs**

- Assess a prospective client's need for immediate medical attention where a violent incident has recently occurred.

**Safety Planning**

- Always assist the client with developing a safety plan, regardless of whether the client seeks a protection order.
- As part of safety planning, consider with your client other parties who should be notified about the existence of a protection order and/or the possibility of further violence. Possible people or places requiring notification are: children's school, babysitter/daycare, victim's workplace, victim's school, embassies, US Passport Agency, local police station, domestic violence shelter, and other family members.

**Criminal Justice System**

- Assess with a prospective client the potential benefit of reporting an incident (or incidents) to the police.
- Where there is a companion criminal prosecution, discuss the victim's reluctance or willingness to participate in the prosecution. In some cases, cooperation with the prosecution may endanger the victim's life or the lives of the victim's children. In other cases, a victim's safety plan may be adjusted to support participation in a criminal prosecution.
- Discuss with your client the possible consequences of returning to an abuser prior to completion of any sentencing requirements (including conditions of probation such as completing a batterer intervention program, a community service component, a parenting class program, a drug/alcohol program, and payment of restitution).

### **Representation**

- You may represent a victim of domestic violence, sexual assault, and/or stalking in economic cases if the legal matters arise as a consequence of that abuse or violence. Often these matters are related to the victim's experience of violence and if left unresolved would result in the deterioration of the client's economic viability. These types of cases may include bankruptcy, tax, landlord/tenant, and/or small claims matters.
  
- If you are unable to represent a client in one of the cases enumerated above, you are strongly encouraged to seek *pro bono* counsel on behalf of the client and closely mentor the *pro bono* counsel.

## ***PERSONALIZED SAFETY PLAN***

### ***SAMPLE***

Barbara Hart and Jane Stuehling, PCADV, 6400 Flank Drive, Suite 1300, Harrisburg, PA  
17112, 1992  
Adapted from "Personalized Safety Plan," Office of the City Attorney, San Diego, California,  
April, 1990

*Adapted and used with permission.*

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Review dates: \_\_\_\_\_

The following steps represent my plan for increasing my safety and preparing in advance for the possibility for further violence. Although I do not have control over my partner's violence, I do have a choice about how to respond to him/her and how to best get myself and my children to safety.

#### **Step 1: Safety during a violent incident.**

Victims cannot always avoid violent incidents. In order to increase safety, victims may use a variety of strategies. I can use some or all of the following strategies:

- A. If I decide to leave, I will \_\_\_\_\_.  
(Practice how to get out safely. What doors, windows, elevators, stairwells or fire escapes would you use?)
- B. I can keep my purse and car keys ready and put them (place) \_\_\_\_\_ in order to leave quickly.
- C. I can tell \_\_\_\_\_ about the violence and request that they call the police if they hear suspicious noises coming from my house.

I can also tell \_\_\_\_\_ about the violence and request that they call the police if they hear suspicious noises coming from my house.

D. I can teach my children how to use the telephone to contact the police and the fire department.

E. I will use \_\_\_\_\_ as my code word with my children or my friends so they can call for help.

F. If I have to leave my home, I will go \_\_\_\_\_ . (Decide this even if you don't think there will be a next time.)

If I cannot go to the location above, then I can go to \_\_\_\_\_ or \_\_\_\_\_ .

G. I can also teach some of these strategies to some/all of my children.

H. When I expect we are going to have an argument, I will try to move to a space that is lowest risk, such as \_\_\_\_\_. (Try to avoid arguments in the bathroom, garage, kitchens, near weapons or in rooms without access to an outside door.)

I. I will use my judgment and intuition. If the situation is very serious, I can give my partner what he/she wants to calm him/her down. I have to protect myself until I/we are out of danger.

**Step 2: Safety when preparing to leave.**

Victims frequently leave the residence they share with the battering partner. Leaving must be done with a careful plan in order to increase safety. Batterers often strike back when they believe that a victim is leaving a relationship. I can use some or all of the following safety strategies:

A. I will leave money and an extra set of keys with \_\_\_\_\_ so I can leave quickly.

B. I will keep copies of important documents or keys at \_\_\_\_\_.

- C. I will open a savings account by \_\_\_\_\_, to increase my independence.
- D. The domestic violence program's hotline number is \_\_\_\_\_. I can seek shelter by calling this hotline.
- E. I can keep change for phone calls on me at all times or I can purchase a telephone calling card. I understand that if I use my telephone *credit* card, the following month the telephone bill will tell my batterer those numbers that I called after I left. To keep my telephone communications confidential, I must either use coins or a telephone *calling* card. I may also get a friend to permit me to use his/her telephone credit card for a limited time when I first leave.
- F. I will check with \_\_\_\_\_ and \_\_\_\_\_ to see who would be able to let me stay with them or lend me some money.
- G. I can leave extra clothes with \_\_\_\_\_.
- H. I will sit down and review my safety plan every \_\_\_\_\_ in order to plan the safest way to leave the residence. \_\_\_\_\_ (domestic violence advocate or friend) has agreed to help me review this plan.
- I. I will rehearse my escape plan and, as appropriate, practice it with my children.

**Step 3: Safety in my own residence.** There are many things that victims can do to increase safety at home. It may be impossible to do everything at once, but safety measures can be added step by step. Safety measures I can use include:

- A. I can change the locks on my doors and windows as soon as possible.
- B. I can replace wooden doors with steel/metal doors.
- C. I can install security systems including additional locks, window bars, poles to wedge against doors, an electronic system, etc.
- D. I can purchase rope ladders to be used for escape from second floor windows.

- E. I can install smoke detectors and purchase fire extinguishers for each floor in my house/apartment.
- F. I can install an outside lighting system that lights up when a person is coming close to my house.
- G. I will teach my children how to use the telephone to make a collect call to me and to \_\_\_\_\_(friend/clergy/other) in the event that my partner takes the children.
- H. I will tell people who take care of my children which people have permission to pick up my children and that my partner is not permitted to do so. The people I will inform about pick-up permission include:  
  
\_\_\_\_\_(school), \_\_\_\_\_(day care staff), \_\_\_\_\_(babysitter), \_\_\_\_\_(religious school teacher), \_\_\_\_\_(teacher), \_\_\_\_\_ and \_\_\_\_\_(others).
- I. I can inform \_\_\_\_\_(neighbor), \_\_\_\_\_(clergy), and \_\_\_\_\_(friend) that my partner no longer resides with me and they should call the police if my partner is observed near my residence.

**Step 4: Safety with a protection order.** Many batterers obey protection orders, but some do not. I recognize that I may need to ask the police and the courts to enforce my protection order. The following are some steps that I can take to help the enforcement of my protection order:

- A. I will keep my protection order \_\_\_\_\_(location).  
(Always keep it on or near your person. If you change purses, that's the first thing that should go in.)
- B. I will give my protection order to police departments in the community where I work, in those communities where I usually visit family or friends, and in the community where I live.
- C. There should be a county registry of protection orders that all police departments can call to confirm a protection order. I can check to make sure that my order is in the registry.

The telephone number for the county registry of protection orders is \_\_\_\_\_.

- D. For further safety, if I often visit other counties in \_\_\_\_\_, I might file my protection order with the court in those counties. I will register my protection order in the following counties: \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.
- E. I can call the local domestic violence program if I am not sure about B., C., or D. above or if I have some problem with my protection order.
- F. I will inform my employer, my religious leader, my closest friend and \_\_\_\_\_ and \_\_\_\_\_ that I have a protection order in effect.
- G. If my partner destroys my protection order, I can get another copy from the courthouse by going to the Office of the \_\_\_\_\_ located at \_\_\_\_\_.
- H. If my partner violates the protection order, I can call the police and report a violation, contact my attorney, call my advocate, and/or advise the court of the violation.
- I. If the police do not help, I can contact my advocate or attorney and will file a complaint with the chief of the police department.
- J. I can also file a private criminal complaint with the \_\_\_\_\_ in the jurisdiction where the violation occurred or with the district attorney. I can charge my battering partner with a violation of the protection order and all the crimes that he commits in violating the order. I can call the domestic violence advocate to help me with this.

**Step 5: Safety on the job and in public.** Victims must decide if and when to tell others about their experience as a victim of domestic violence and that they may be at continued risk. Friends, family, and co-workers can help to protect victims. Victims should consider carefully which people to invite to help secure safety. I might do any or all of the following:

- A. I can inform my boss, the security supervisor and \_\_\_\_\_ at work of my situation.
- B. I can ask \_\_\_\_\_ to help screen my telephone calls at work.
- C. When leaving work, I can \_\_\_\_\_.
- D. When driving home if problems occur, I can \_\_\_\_\_.
- E. If I use public transit, I can \_\_\_\_\_.
- F. I can use different grocery stores and shopping malls to conduct my business and shop at hours that are different than those that I used when residing with my battering partner.
- G. I can use a different bank and take care of my banking at hours different from those I used when residing with my battering partner.
- H. I can also \_\_\_\_\_.

**Step 6: Safety and my emotional health.** The experience of being battered and verbally degraded by partners is usually exhausting and emotionally draining. The process of building a new life for myself takes much courage and incredible energy. To conserve my emotional energy and resources and to avoid hard emotional times, I can do some of the following:

- A. If I feel down and ready to return to a potentially abusive situation, I can \_\_\_\_\_.
- B. When I have to communicate with my partner in person or by telephone, I can \_\_\_\_\_.
- C. I can try to use "I can . . ." statements with myself and to be assertive with others.
- D. I can tell myself - " \_\_\_\_\_ " - whenever I feel others are trying to control or abuse me.
- E. I can read \_\_\_\_\_ to help me feel stronger.



- F. I can call \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ as other resources to be of support to me.
- G. Other things I can do to help me feel stronger are \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.
- H. I can attend workshops and support groups at the domestic violence program or \_\_\_\_\_, \_\_\_\_\_ or \_\_\_\_\_ to gain support and strengthen my relationships with other people.

**Step 7: Items to take when leaving.** When victims leave partners, it is important to take certain items with them. Beyond this, victims sometimes give extra copies of papers and an extra set of clothing to a friend just in case they have to leave quickly.

Items with asterisks on the following list are the most important to take. If there is time, the other items might be taken, or stored outside the home.

These items might best be placed in one location, so that if we have to leave in a hurry, I can grab them quickly.

**When I leave, I should take:**

- \* Identification for myself
- \* Children's birth certificates
- \* My birth certificate
- \* Social Security cards
- \* School and vaccination records
- \* Money
- \* Checkbook, ATM (Automatic Teller Machine) card
- \* Credit cards
- \* Keys - house/car/office
- \* Driver's license and registration
- \* Medications
- \* Welfare identification
- \* Work permits
- \* Green card
- \* Passport(s)
- \* Divorce papers

- \*Medical records - for all family members
- \*Lease/rental agreement, house deed, mortgage payment book
- \*Bank books
- \*Insurance papers
- \*Small saleable objects
- \*Address book
- \*Pictures
- \*Jewelry
- \*Children's favorite toys and/or blankets
- \*Items of special sentimental value

**Telephone numbers I need to know:**

Police department - home \_\_\_\_\_  
Police department - school \_\_\_\_\_  
Police department - work \_\_\_\_\_  
Domestic Violence Victims' Services Program \_\_\_\_\_  
County registry of protection orders \_\_\_\_\_  
Work number \_\_\_\_\_  
Supervisor's home number \_\_\_\_\_  
Clergy \_\_\_\_\_  
Other \_\_\_\_\_  
National Domestic Violence Hotline 1-800-799-SAFE (7233)  
National Domestic Violence Hotline (TTY) 1-800-787-3224

## ***CONFIDENTIALITY***

Adapted from materials developed by Susan G. McGee, Executive Director, SAFE House, Ann Arbor, Michigan.

*Used with permission.*

The paragraphs below provide suggestions as to how to implement a confidentiality protocol to protect victims better. OVW recognizes that grant recipients must first follow the rules of their jurisdiction and may not be able to implement some portions of the protocol due to other limitations.

Any information that a client discloses to project personnel is confidential. Seemingly inconsequential information may have greater significance within the context of a battering relationship. Therefore information about a client should only be released with the client's permission except as detailed below.

### **Training**

- The grantee should provide confidentiality training to the entire staff, including volunteers and interns. Training should include sessions on the jurisdiction's statutes and rules of professional conduct regarding confidentiality and a review of this protocol.
- After receiving the confidentiality training, paid and unpaid staff should sign an instrument stating that they understand the policy and agree to comply.

### **Discussion of Clients**

- After obtaining an authorization for release of information, volunteers, staff and supervisors of grantee organizations and project partner staff may routinely share information with each other about clients only upon a need to know basis. Clients should be aware that information will be shared among staff as necessary to provide appropriate services.
- Project staff should not publicly confirm or deny an attorney's representation of a client without the client's express permission even if the attorney's representation is a matter of public record.

- Staff should not discuss clients in public spaces to avoid public recognition of a client's identity.

### **Obtaining Written Authorization of Release**

- Authorization to obtain or release information regarding a client shall be in writing. (Exceptions may be made to the writing requirement. See below). The written release should state that: a) it pertains only to information which currently exists; b) the information is relevant to representation and will only be used for that purpose; and c) the release is revocable at any time. Relevant state statutes should be cited in the release.
- To ensure that a client is knowingly and voluntarily authorizing a release of information, the grantee should provide a written translation in the client's native language to any client who is not fluent in English. When a client cannot read, a staff member should read aloud to the client the authorization of release in English or in the client's native language.

### **Exceptions to Obtaining Written Authorization of Release**

- Staff may disclose confidential information when there is a clear and imminent life threatening danger to an individual. The Executive Director, or staff acting on the Executive Director's behalf should make this determination. This confidential information may be disclosed without written authorization from the client.
- Staff may rely on a verbal authorization of release if there is an emergency. If authorization is given over the telephone, whenever possible, another staff person should "witness" the verbal authorization of release. A note, signed by both staff people, should be made in the client's file stating the circumstances of the verbal authorization. A written authorization of release should be executed as soon as possible.
- If a client is deceased or missing, the grantee should only release information in accordance with the statutes and professional rules of conduct in the grantee's jurisdiction.

- Staff may disclose confidential information in compliance with a valid court order. Where possible, the Executive Director, or staff acting on the Executive Director's behalf should make this determination.

#### **Revocation of Authorization of Release**

- Revocation of authorization shall be in writing where possible. Where revocation is originally communicated verbally, staff must act in accordance with the revocation and make a notation in the client's file. Written revocation signed by the client should be obtained as soon as possible after the issuance of the verbal revocation.

#### **Maintenance of Records**

- Where a client gives authorization for release of records, her attorney or her attorney's supervisor must review those records prior to release.
- Disposal of client files should comport with the statutes and rules of the jurisdiction.
- Funders who must audit service records should sign a confidentiality agreement before reviewing the records.

## ***EMPLOYEE CONFIDENTIALITY AGREEMENT***

### ***SAMPLE***

Adapted from materials developed by Susan G. McGee, Executive Director, SAFE House, Ann Arbor, Michigan.

*Used with permission*

I, (name and position), have read and understand the confidentiality policy of XYZ Legal Services, Inc. and have attended XYZ's training on confidentiality.

I understand that maintaining a client's confidentiality is paramount to a client's safety.

I am required to keep clients' confidences and may not disclose (including to other project personnel) any information regarding a client without express permission, preferably in writing.

I will not discuss client matters in public spaces.

I will not publicly acknowledge a client without her express permission.

I will direct my questions regarding confidentiality to my immediate supervisor, (name and title). If s/he is unavailable, I will direct my questions to the Executive Director.

I understand that a knowing and voluntary violation of the confidentiality policy can result in disciplinary action taken against me, including but not limited to, suspension or termination of employment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

## ***AUTHORIZATION FOR RELEASE OF INFORMATION***

### ***SAMPLE***

I, (client's name), hereby authorize and request (name of organization or service provider) to send/release the following: any and all records, information, evaluations, and clinical opinions regarding (myself) (my children), (DOB), to my attorney, Betty Jones, or her authorized agent, XYZ Legal Services, Inc, 123 Main Street, Anytown, Anyplace 12345.

In authorizing this release, I understand this information will be used solely for the purpose of representing me in proceedings in (name court or administrative agency) both now and in the future, and that this authorization for release of information is limited to information that is now in existence. In addition, I understand that I have the right to inspect any (name type of record, progress notes, or case notes). I further understand that this information cannot be redisclosed without my authorization.

(Cite any relevant Statute)

This consent is subject to revocation either orally or in writing at any time.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

## ***FUNDERS' CONFIDENTIALITY AGREEMENT***

### ***SAMPLE***

Adapted from materials developed by Susan G. McGee, Executive Director, SAFE House, Ann Arbor, Michigan.

*Used with permission.*

I, (name) am a reviewer/auditor for (name of Program).

I am reviewing all of (name of legal services provider)'s client files regardless of the funding source for (state purpose).

I understand that I am reviewing files of victims of domestic violence, sexual assault, and/or stalking whose representation was funded by the OVW Legal Assistance for Victims Grant Program.

I further understand that maintaining clients' confidences is crucial to their safety and well-being.

I affirm that I will not redisclose any of the information I have learned by my review of the file under any circumstances except by court order.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title and Organization  
Affiliation



## ***CONFLICT OF INTEREST***

The paragraphs below are a suggestion as to how to implement a conflict of interest protocol to serve victims of domestic violence, sexual assault, and/or stalking better. OVW recognizes that grant recipients must first follow the rules of their jurisdiction and may not be able to implement some portions of the protocol due to other limitations.

- The grantee's conflict check system may be either maintained manually or in a database. The grantee should update the conflict check system daily.
- All identifying information should be used to detect a conflict. A grantee should maintain information regarding the parties including, but not limited to, name, address, telephone number, names and dates of birth of children in common, and/or the victim's maiden name. A grantee should not rely on a social security number alone.
- At the initial intake, staff should perform the conflict check prior to conducting any portion of the interview, including determining eligibility based on income. Grantees should not conduct the initial intake or ask income information prior to checking for conflicts because of the risk of obtaining information improperly about the opposing party or obtaining material information from a party whom the grantee subsequently declines to represent.
- State law relating to the rules of professional conduct govern. However, batterers and victims are presumed to have interests that are materially adverse for the purposes of this grant program.
- Where a grantee has not formally represented an individual, but has conducted an interview, the grantee should enter that individual's information in the conflict check system and decline to represent the prospective opposing party.
- If a victim seeks assistance and the abuser is already represented by the grantee in any type of case or the grantee has conducted a lengthy intake with the abuser where material information was provided to the grantee, the grantee should decline to represent the victim prior to conducting any kind of interview. Additionally, the grantee should refer the victim immediately to other services including other legal agencies that assist clients to develop safety plans.

**INTAKE FORM  
SAMPLE**

***Discuss confidentiality policy prior to beginning the Intake.***

***Every state recognizes that information discussed between a client and an attorney is protected by attorney-client privilege. However, client intake information may not be privileged where shelter workers or other personnel conduct the intake interview. Please review your state's rules prior to determining which project personnel will conduct intake interviews.***

***Use \* items to form the foundation of your conflicts check database.***

Date: \_\_\_\_\_

***I. About Your Client***

Name:\* \_\_\_\_\_ Telephone#:\* \_\_\_\_\_

Date of Birth:\* \_\_\_\_\_ Safe times to call: \_\_\_\_\_

Home Address: \_\_\_\_\_ Caller ID: \_\_\_\_\_ yes \_\_\_\_\_ no

Work  
Address: \_\_\_\_\_ Telephone#:\* \_\_\_\_\_

Okay to call? times? \_\_\_\_\_

School Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Okay to call? times? \_\_\_\_\_

Other safe contact information:

\_\_\_\_\_  
\_\_\_\_\_

S.S. #:\* \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Immigration Status(for safety planning and referral):\_\_\_\_\_

Native language:\_\_\_\_\_English: None/Some/Fluent

Criminal History: (You need to ask this in the event that the case goes to trial.)

Type of Offense	Date of Offense	Jurisdiction	Disposition

Weapons:\_\_\_\_\_

Alcohol/drug abuse:\_\_\_\_\_

***II. About the Opposing Party***

Name:\*(including nicknames and aliases) \_\_\_\_\_

Date of Birth:\* \_\_\_\_\_

Home Address:\_\_\_\_\_ Telephone #:\* \_\_\_\_\_

Caller ID \_\_\_\_\_yes\_\_\_\_\_no

Work Address:\_\_\_\_\_ Telephone #:\* \_\_\_\_\_

School Address:\_\_\_\_\_ Telephone #: \_\_\_\_\_

S.S. #:\* \_\_\_\_\_

Place of Birth:\_\_\_\_\_

Immigration Status:\_\_\_\_\_

Native Language: \_\_\_\_\_ English: None/Some/Fluent

Criminal History:

Type of Offense	Date of Offense	Jurisdiction	Disposition

Weapons: \_\_\_\_\_

Alcohol/drug abuse: \_\_\_\_\_

Participation in drug/alcohol rehabilitation program and/or domestic violence intervention program:

Dates of Participation	Type of Program	Name and Location	Successful Completion?

History of parental kidnaping or threats of kidnaping: \_\_\_\_\_.

**III. About the Parties' Relationship**

Has your spouse/partner ever put his/her hands on you against your will?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has your spouse /partner forced you to do something by threatening you?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

When was the most recent incident?

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When was the last incident before that?

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What was the worst incident ever?

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When is the first time you can remember the use of force or threats against you?

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Has your child/children been abused by your spouse/partner?

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Overall History:

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Police Reports: \_\_\_\_\_

Hospital Records: \_\_\_\_\_

Has anyone ever seen or heard your spouse/partner threaten or hurt you?

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Name: \_\_\_\_\_

Contact Information: \_\_\_\_\_

Prior Protection Orders:

<b>Date</b>	<b>Jurisdiction</b>	<b>Disposition</b>

Other prior court action:

<b>Date</b>	<b>Jurisdiction</b>	<b>Disposition</b>

Children in common:\*

<b>Name</b>	<b>Date of Birth</b>	<b>Place of Birth</b>	<b>Sex</b>	<b>Immigration Status</b>

Residence of the children for the past 5 years:

<b>Name</b>	<b>Location of Residence</b>	<b>Dates lived at Residence</b>	<b>Other Occupants of Residence</b>

Other Children (specify child of client or of opposing party)

<b>Name</b>	<b>Date of Birth</b>	<b>Place of Birth</b>	<b>Sex</b>	<b>Immigration Status</b>	<b>Parents</b>

Parties married to each other: \_\_\_\_\_ Yes \_\_\_\_\_ No

If so, date and place of marriage: \_\_\_\_\_

Parties previously married to other partners: \_\_\_\_\_ Yes \_\_\_\_\_ No

If so, date of dissolution: \_\_\_\_\_

Place of dissolution: \_\_\_\_\_

#### ***IV. INCOME***

Client employed: \_\_\_\_\_ Yes \_\_\_\_\_ No. Approximate Gross Income \_\_\_\_\_

Other household member employed: \_\_\_\_\_ Yes \_\_\_\_\_ No. Approximate Gross Income \_\_\_\_\_

Opposing Party employed: \_\_\_\_\_ Yes \_\_\_\_\_ No. Approximate Gross Income \_\_\_\_\_

Health Insurance for client: \_\_\_\_\_ Yes \_\_\_\_\_ No

Health Insurance for children: \_\_\_\_\_ Yes \_\_\_\_\_ No

Childcare costs: \_\_\_\_\_

Any extraordinary expenses: \_\_\_\_\_

***See Safety Plan Sample for additional questions.***

## ***SERVING BATTERED IMMIGRANTS***

- Fiscal Year (FY) 2001 grant recipients may use grant funds to represent clients in immigration cases pursuant to the Violence Against Women Act of 2000.
- Grantees should represent immigrants victims, like other clients, in any cases for which they are eligible under the LAV grant program.
- Grantees are not required to ask about the immigration status of any client seeking services. Grant recipients may inquire as to the status of an immigrant victim where the individual's immigration status could affect the victim's safety and safety planning.
- Grantees should refer an immigrant victim to an immigration attorney who has experience representing victims of domestic violence, sexual assault and/or trafficking for immigration-related assistance.
- Grantees should consult with an immigration attorney with experience representing victims of domestic violence, sexual assault, and/or trafficking prior to commencing any action on behalf of an immigrant victim.
- Grantees should consult with an immigration attorney familiar with the immigration relief available under the Violence Against Women Act prior to commencing a divorce action on behalf of a battered immigrant.
- Grantees are encouraged to make their services culturally and linguistically appropriate and accessible to all community members.



## ***INCOME GUIDELINES***

- To maximize the legal services available to victims of domestic violence, sexual assault and/or stalking, there are no specific income guidelines associated with the LAV grant program. However, the prospective clients must demonstrate that they cannot afford to hire a lawyer.
- Grantees, as recipients of other sources of funding, may be required to impose income guidelines for prospective clients associated with those funds. However, grantees should not automatically impose the same income guidelines for those funds on prospective clients to be served under the LAV grant program.
- Grantees may impose an income guideline as a factor to be considered when prioritizing case acceptance.
- Many domestic victims cannot afford legal services despite having an income in excess of 150% of the poverty line.
- Many domestic violence victims do not have access to the assets of their marriage (or relationship) as a result of their abusers' control over finances.
- The grantee shall obtain OVW's approval prior to implementing an income guideline which was not part of the grantees original or continuation application.