



## Best Practices in Documentation: Getting to the Bare Essentials

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2

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## Thanks:

3

- Georgia Criminal Justice Coordinating Council
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## Part One:

4

### REASONS FOR DOCUMENTATION, WHY LESS IS BEST, AND HOW TO MEET FUNDING REQUIREMENTS

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## Upcoming Confidentiality Webinars

5

### Best Practices in Documentation, Part 2:

- Recommendations for record retention
- Funder requirements
- How to write a good case note

Tuesday, September 8<sup>th</sup>  
10:00 am – 11:30 am  
2:00 pm – 3:30 pm

### Confidentiality and Community Partnerships

- How to engage in a coordinated community response to domestic violence without violating survivor confidentiality

Tuesday, September 22<sup>nd</sup>  
10:00 am – 11:30 am  
2:00 pm – 3:30 pm

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## Why Programs Document: 3 Reasons

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- To meet survivors' safety and advocacy needs
- To meet funder requirements and maintain program functioning
- To keep data for statistics and program evaluation



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7

## Best Practices as Recommended Nationally

- **Confidentiality: An Advocate's Guide.** *Battered Women's Justice Project.* September, 2007



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## Documenting Our Work with Survivors

8

- Is documenting our services the same as providing services?
  - Two different things!
  - As part of survivor-centered, trauma-informed advocacy we ask many questions and learn many details about survivors.
  - Just because it isn't documented or detailed, doesn't mean it isn't happening.
  - Data collected and documentation should be minimal.
  - Work toward finding the balance between our need to document our work and the survivor's right to privacy.

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## Poll Question

9

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## Record-keeping Philosophy: Why Less is Best

10

- Records can be subpoenaed and used against survivors in court proceedings
- Excessive documentation may violate a survivor's trust and/or confidentiality
- Too much documentation is time consuming and unnecessary
- Documentation of a survivor's shelter stay could be used as a reason not to re-admit her or to provide services at a later date
- Ultimately the information belongs to the survivor



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## Reasons for Documentation

11

### #1 MEETING SURVIVORS' SAFETY AND ADVOCACY NEEDS

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## Key Points to Consider

12

- What is the purpose of writing down this information?
- Can that purpose be addressed in another way?
- Is recording this information essential to meet survivors' needs?
- How would the survivor react if she read the written notes?
- How would survivors react to knowing that disclosure of this kind of information is possible (i.e. subpoenas)?



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## Key Points to Consider

13

- What is the most critical information needed to provide services?
- Does it document services provided or is it something we would just like to know, or think we need to know, about the survivor?
- What can wait or be asked later?
- What could be potentially harmful to the survivor?
- What must be collected to report to funders?



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## Experience with Domestic Violence

14

- Find balance between documenting details and minimizing risk to the survivor's privacy
- Ok to keep public records such as court documents, police reports, TPOs, etc.
- Work with survivor to find safe storage for her documents, such as letters, journals, emails, etc.
- May include physical description of batterer/batterer's vehicle, to aid with safety planning
- Ok to include Lethality/danger factors



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## Intake

15

- What is an intake?
  - Depends on the service: outreach, shelter, legal advocacy
- Any intake should be as brief as possible
- Focus on the survivor's immediate needs
- Provide information on program services, structure, and survivor's rights
- Collect basic information needed to record in database and to advocate on her behalf



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## Safety Plan

16

- Document that a safety plan was created
- Do not include details of the safety plan
  - If the records were subpoenaed for court, the batterer could then potentially see the safety plan



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## Reasons for Documentation

17

### #2 TO MEET THE REQUIREMENTS OF FUNDING AGENCIES AND MAINTAIN PROGRAM FUNCTIONING

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## Meeting Funder Requirements

18

- Most funders are sensitive to survivors' privacy and even require confidentiality as a part of receiving the grant
- There may be information, however, that could reveal a survivor's identity that the grant provider would not easily consider
- The goal of documentation is to show that services are being provided according to grant requirements



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## Meeting Funder Requirements

19

- Know exactly what is required regarding record-keeping and retention
- When compiling reports, collect only the information required (Example: CJCC requires surveys, but there should be no identifying information attached)
- Communicate with funders if there are questions or concerns
- Remember that you are the protector of any information gathered from the survivor!



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## Poll Question

20

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## Other Documentation: Shift Change Notes, Shelter Living Notes, Staff Log, Etc.

21

- Many programs keep informal notes to communicate key issues and concerns between staff.
- Special considerations:
  - Is there another way to share this info without documenting it?
  - Be aware that these notes can be subpoenaed along with other records
  - Keep these notes separate from client file or database/client management system
  - Should be brief, objective and not contain full names of survivors
  - Should be destroyed within 30 days of survivor exiting shelter
  - Should only be accessible to staff who "need to know"

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## Consent Forms and Waivers

22

- Optional forms that may be included in the survivor's file
  - Consent to Release information
  - Receipt of Rights and Responsibilities
  - Informed consent to receive services
  - Receipt of grievance procedure
  - Waivers for loss of personal property/injury
  - Emergency contact (be able to explain when this form will be used and how – what constitutes an emergency?)



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## Reasons for Documentation

23

**#3**  
**FOR STATISTICAL PURPOSES,  
AND TO EVALUATE PROGRAM  
SERVICES AND NEEDS**

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## Sharing Statistics...What is Identifying?

24

- Aggregate data can be identifying depending on the program's service area and population
- Each program should consider its population size and make-up, and determine if a survivor could be identified with only demographic information, such as race
  - Example: in a small community there may be only one Pacific Islander who has five children and falls within a certain age range
- Survivor confidentiality is more important than statistical data



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## Program Evaluation

25

- Some programs may look at trends to determine who is being served, the frequency of services being requested, and the effectiveness of the program (outcomes).
- **Special Considerations:**
  - Ensure that aggregate data that does not include any identifying information
  - Anyone coming in from outside the agency should not have access to survivor files
  - Utilize technology (tools within the database) to protect identifying information
  - Weigh the survivor's right to privacy against the benefits of the evaluation

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## Electronic Records

26

- What information is "required" at your agency, and why is this information collected?
  - Avoid: social security number, driver's license number, full date of birth, list of medications
- How is this information generated into reports?
- How long is this information kept, and how is it used?
- As technology improves, and as we become better at utilizing it, privacy and confidentiality must always be primary considerations.



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27

## Releases and Waivers



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## Scenario

28

- DFCS calls your program and says she has a signed release of information from a survivor who's been attending your support group meetings. DFCS would like to confirm the survivor's attendance and discuss how the survivor is doing. DFCS faxes the signed release to you. How do you respond?
  - You share basic information with DFCS about the survivor's attendance at support group. Afterward, you let the survivor know about your conversation with DFCS.
  - You contact the survivor to let her know about the DFCS request for information and get the survivor's consent over the phone to let you speak with DFCS about her group attendance.
  - You contact the survivor to let her know about the DFCS request and talk with her about signing a release of information from your program that giving you permission to speak with DFCS and outlining what you can share.
  - You tell DFCS that you're not allowed to share information about survivors you work with and that she'll need to have the survivor contact your program to give consent for you to share information.

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## Release of Information

29

- Programs DO NOT need releases in order to provide services
- Releases cannot be a condition of service
- Ask if there is another way to meet survivor's needs without needing a release?
  - ✦ Survivor shares information themselves
  - ✦ 3-Way Calls, led by survivor
  - ✦ Advocates make calls on behalf of survivor without releasing survivor's name (inquiries about bed space or services)



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## When are Releases Necessary?

30

- Anytime a program is speaking with another agency or individual about a client of their program, a signed release must be obtained.
- Releases should be:
  - ✦ Informed
  - ✦ Written
  - ✦ Reasonably Time-Limited



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## Individual Releases

31

- **Blanket waivers (multiple agencies listed) should not be used by programs. Releases should be individual for each agency/outside contact.**
- Asking for routine waivers fails to acknowledge the individual consequences that such information-sharing might have for each survivor.
- You **cannot** rely on a signed release from another agency.



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## Informed Consent

32

- **Survivors should be informed...**
  - that releases are voluntary
  - that releases can be changed or revoked
  - of what specific information will be shared
  - of what agencies/individuals will receive information
  - of the risks associated with each agency/individual receiving their information
  - of the methods of communication that will be used to relay information (phone, fax, testimony, etc.) and the risks with each method



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## Written Releases

33

- **Releases should include...**
  - Notice that the release of information is completely voluntary and not required to receive services,
  - Notice that consent given to release information can be revoked at any time,
  - Exactly what information will be shared,
  - Exactly what agency will receive the information,
  - Information on the communication methods that will be used in relaying the information,
  - The timeframe that the release will be valid.



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## Time-Limited

34

- **The length of time a release is valid should be reasonable based on the individual survivor and the program**
- **Best practice is to keep the timeframe as minimal as possible (ideally 15-30 days)**
- **The time limitations help ensure that services are guided through any changes in the survivor's situation**



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## What About Community Partnerships?

35

- **Without a written release from the survivor, you cannot talk about specific cases/identifying information with community partners, law enforcement, task forces, etc.--even if you have a signed MOU/confidentiality statements with community partners.**
- You can discuss:
  - ✦ General trends
  - ✦ Hypothetical cases
  - ✦ How your organization would respond in a variety of situations
- **Encourage partners to use similarly detailed release forms and practices**

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## Video:

36

### “ORDERING PIZZA”

<https://www.aclu.org/ordering-pizza>

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## Written Policies

37

- It is important to have written policies describing what information will be documented in a survivor’s file, and for how long that information will be kept
- The survivor should be made aware of these policies
- Find a balance between allowing staff to create and maintain records needed to successfully operate the program while also reducing the potential risk to the survivor



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## Conclusion

38

- Utilize a “less is best” approach when choosing the right balance of documentation and privacy in your program
- Communicate with survivors about what is documented and how, and what are the risks
- Balance program functioning and reporting with best interest of survivors



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## Resources

39

- **NNEDV: Technology and Resources**
  - Confidentiality Toolkit: <http://tools.nnedv.org/>
- **Confidentiality: An Advocate’s Guide.** *Battered Women’s Justice Project.* September, 2007
- **Thoughtful Documentation: Domestic Violence Programs Model Forms.** *Missouri Coalition Against Domestic Violence.* 2011

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## Upcoming Confidentiality Webinars

40

Best Practices in Documentation, Part 2:	Confidentiality and Community Partnerships
<ul style="list-style-type: none"> <li>• Recommendations for record retention</li> <li>• Funder requirements</li> <li>• How to write a good case note</li> </ul>	<ul style="list-style-type: none"> <li>• How to engage in a coordinated community response to domestic violence without violating survivor confidentiality</li> </ul>
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## Thank You!

41

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