

Title 75. ATTORNEY GENERAL
CHAPTER 30. STANDARDS AND CRITERIA FOR ADULT VICTIMS OF HUMAN
SEX TRAFFICKING PROGRAMS

**SUBCHAPTER 3. SEXUAL ASSAULT PROGRAMS FOR ADULT VICTIMS/
SURVIVORS OF SEXUAL VIOLENCE AS A RESULT OF HUMAN SEX
TRAFFICKING**

75:30-3-1. Service programs core services

(a) Programs serving victims of sexual violence as a result of human sex trafficking and their dependents or family members should consider special service needs when developing a plan to offer services.

~~(b) Programs shall serve residential and non-residential victims of human sex trafficking.~~

(eb) All certified programs shall provide safe, accessible, and trauma-informed services for victims of human sex trafficking and their dependents or non-offending family members.

(ec) The program shall develop a philosophy of trauma-informed service provision based upon voluntary services and individual self-determination. The written statement of the philosophy of services shall be approved by the governing authority and made available to the community, staff, volunteers and clients.

(ed) The program shall have policies and protocols for accepting victims of human sex trafficking and develop procedures to maintain facilities, staffing, and operational methods, including a policy on the recruitment of board members, staff and volunteers who are representative of the diversity in the local community and the diversity of their clients.

(ee) All certified programs shall ensure shelter is provided and be able to respond to special needs which may include:

- (1) Length of stay shall be based on the needs of the client.
- (2) Safety planning should be designed to meet individual, unique needs. Safety planning can be complex due to danger created by an extensive human sex trafficking organization. Perpetrators often threaten the trafficked person's family in the country of origin as well, and such threats impact decisions made by a human sex trafficking victims.
- (3) Human sex trafficking victims may never have assimilated into the local community or U.S. culture. Such lack of assimilation, in addition to language barriers and lack of family or community support may make it difficult to meet shelter requirements such as communal meals, support groups and roommates of different ethnic, cultural or religious backgrounds.
- (4) Human sex trafficking victims may have language interpretation needs. The program shall provide access to an

interpreter. It may be necessary for the program to provide translations of written consent forms and other documents.

(5) Human sex trafficking victims may need intensive case management and advocacy for extended periods of time.

(6) A victim of human sex trafficking may feel that she has to babysit for free, cook meals or do more than her fair share of the chores. Programs should be aware of this dynamic and ensure that staff, volunteers and other residents do not unwittingly allow this dynamic to occur.

(7) Programs should ensure victims are educated about the value of participating in the legal prosecution of offenders and that an appropriate release or waiver may be necessary. It is the human sex trafficking victim's choice to cooperate with law enforcement. Programs may have to educate law enforcement about certain policies, confidentiality and privilege laws, victim issues, including safety concerns, and whether or not law enforcement may enter the shelter. Programs shall also inform law enforcement that victims cannot be restricted from leaving the shelter. Programs shall provide alternate, secure locations for interviews.

(8) Victims of human sex trafficking may be charged with federal or state crimes. Shelters should develop relationships with qualified criminal defense lawyers, including the federal and state public defender offices that can assist them.

(9) Establishing networks with additional service providers: Because of the unique needs of human sex trafficking victims, shelters may have to identify and establish relationships with service providers such as those who do refugee settlement, with whom they have no previous relationship, and assess the providers as potential referral sources.

(~~ef~~) All certified programs shall provide services free from all forms of unlawful discrimination based on race, sex, color, ~~gender, sexual orientation, age,~~ national origin, genetic information, religion, disabilities disability (i.e., physical, mental illness and substance abuse), and/or economic or educational status, ~~religion and national origin~~, including a policy that services to ~~immigrant women~~ will not be denied or diminished on the basis of immigration status.

(~~hg~~) Compliance with 75:30-3-1 shall be determined by a review of the program's policies and procedures, service agreements, on-site observation, client and staff interviews and/or other supporting documentation.

SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

75:30-5-4. Client confidentiality

(a) Protecting the confidentiality of human sex trafficking victims is critical to protecting their safety and establishing trust. Case or client records, files or notes, of a certified sexual assault program for adult victims of human sex trafficking program shall be confidential and shall only be released under certain prescribed conditions pursuant to Oklahoma law (74 O.S. § 18p-3).

(b) The program shall have written policies and procedures to ensure confidentiality of client information and identity the shelter location and govern the disclosure of information including verbal disclosure contained in client records. When a client record is established, the program shall discuss the confidentiality requirements and limitations with each client and maintain documentation in the client record that they have reviewed the circumstances under which confidential information may be revealed. Assisting human sex trafficking victims requires the release of confidential information more often, and to more organizations, than when assisting non-trafficked victims. This is particularly true if the victim is seeking certification from HHS or ORR. Staff or volunteers should always obtain the informed, written consent of the victim when relaying confidential information to any person, including law enforcement, federal prosecutors, state attorneys, victim advocates and social services agencies. The written consent forms must be translated into the victim's native language, state the name of the person or organization receiving the information, and contain an expiration date.

(c) The human sex trafficking program must comply with both the state and federal laws that govern confidentiality and any exceptions to those laws.

(1) **State Law:** Case or client records, files or notes, of a human sex trafficking program shall be confidential and shall only be released under certain prescribed conditions (74 O.S. § 18p-3):

(A) The case records, case files, case notes, client records, or similar records of a human sex trafficking program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any human sex trafficking program or counselor shall be confidential and shall not be disclosed;

(B) For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records, and information regarding

clients of human sex trafficking programs; and

(C) The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

(2) **Federal Law:**

~~(A) The U.S. Violence Against Women Act (VAWA) at 42 U.S.C. § 13925 (b) (2), mandates programs that receive VAWA funds shall not reveal personally identifying information about victims without "reasonably time-limited," written, and informed consent. Under this provision, VAWA-funded programs are prohibited from disclosing personally identifying victim information to any third party, including to any database operated by any party outside of the domestic violence program. "Reasonably time-limited" is not defined in the statute, but it is determined by the circumstances and the purposes for which the client is requesting the release of information. It could be a few minutes, a few hours, or a few days. In no event should it be for more than 60 days;~~

(A) The Violence Against Women Act universal grant conditions regarding confidentiality, Section 3 of VAWA, 34 USC §12291(b) (2) provides, in part: 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 shall protect the confidentiality and privacy of persons receiving services. Grantees and subgrantees shall not: disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantee and subgrantee programs, regardless of whether the information has been encoded, encrypted, hashed or otherwise protected; or disclose, reveal, or release individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of legal incapacity, a court-appointed guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given

by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor. If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may release information without additional consent. If release of information is compelled by statutory or court mandate, grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information. In no circumstances may an adult, youth, or child victim of domestic violence, dating violence, sexual assault, or stalking be required to provide a consent to release identifying information as a condition of eligibility for the services provided.

~~(B) The Family Violence Prevention and Services Act (FVPSA) at 42 U.S.C. 10406(c)(5), mandates specific confidentiality protections that apply to many programs. In order to ensure the safety of adult, youth and child victims of family violence, domestic violence or dating violence, and their families, FVPSA grantees and subgrantees under this chapter shall protect the confidentiality and privacy of such victims and their families. Grantees and subgrantees shall not:~~

~~(i) Disclose any personally identifying information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or~~

~~(ii) Reveal personally identifying information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of an individual with a guardian, the individual's guardian) about whom information is sought, whether for this program or any other Federal or State grant program, except that consent for release may not be given by the abuser or suspected abuser of the minor or individual with a guardian, or the abuser or suspected abuser of the other parent of the minor.~~

(B) The Family Violence Prevention and Services Act universal grant conditions on confidentiality, 42 USC 10401 et seq. provides, in part: Personally identifying information. The term personally identifying information has the meaning given the term in the Violence Against

Women Act. In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of such victims and their families. Subgrantees shall not disclose any personally identifying information collected in connection with services requested (including services utilized or denied), through grantee and subgrantee programs; or reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal or State grant program, which consent shall be given by the person, except in the case of an unemancipated minor, the minor and the minor's parent or guardian; or in the case of an individual with a guardian, the individual's guardian; and may not be given by the abuser or suspected abuser of the minor or individual with a guardian, or the abuser or suspected abuser of the other parent of the minor. If release of information is compelled by statutory or court mandate grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the release of the information; and grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(C) Victims of Crime Act regulations on confidentiality applying to grantees, 28 CFR §94.115 provides in part: Sub-recipients of VOCA funds shall, to the extent permitted by law, reasonably protect the confidentiality and privacy of persons receiving services under this program and shall not disclose, reveal, or release any personally identifying information or individual information collected in connection with VOCA-funded services requested, utilized, or denied, regardless of whether such information has been encoded, encrypted, hashed, or otherwise protected; or individual client information, without the informed, written, reasonably time limited consent of the person about whom information is sought, except that consent for release may not be given by the abuser of a minor, incapacitated person, or the abuser of the other parent of the minor. If a minor or a person with a legally appointed guardian is permitted by law to receive services without a parent's (or the guardian's) consent, the minor or person with a guardian may consent to release of

information without additional consent from the parent or guardian. If release of information is compelled by statutory or court mandate, SAAs or sub-recipients of VOCA funds shall make reasonable attempts to provide notice to victims affected by the disclosure of the information, and take reasonable steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(~~E~~) Housing Assistance Emergency Solutions Grants, at 42 U.S.C. § 11375 (c)(5), require recipients to develop and implement procedures to ensure confidentiality of records pertaining to any individual provided family violence prevention or treatment services under this part and that the address or location of the family violence shelter project assisted under this part will not be made public without written authorization of the person or persons responsible for the operation of such shelter; and

(~~E~~) Stewart B. McKinney Homeless Assistance Act, at 42 U.S.C. § 1130163, mandates that any victim service provider that is a recipient or subgrantee shall not disclose for purposes of the Homeless Management Information System (HMIS) any personally identifying information about any client. Subgrantees may be required to disclose for purposes of HMIS non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. The Violence Against Women Act also contains a provision that specifies a domestic violence program provider shall not disclose any personally identifying information about any client to the Homeless Management Information System (HMIS).

(d) Compliance with 75:30-5-4 shall be determined by a review of the program's policies and procedures; and on-site observation of the handling and review of client records.

75:30-5-4.1. Waiver of Confidential Information

- (a) For a waiver of confidentiality to be valid, it must:
- (1) Be voluntary;
 - (2) Relate only to the participant or the participant's dependents;
 - (3) Clearly describe the scope and any limitations of the information to be released;
 - (4) Include an expiration date;
 - (5) Inform the participant that consent can be withdrawn at any time, orally or in writing;
 - (6) Programs may only share the specific information the client allows in the release. The client gets to choose when,

how and what personal information will be shared, or not shared, and with whom;

(7) Even when a court mandate requires the program to disclose or release information about the client, the program may only share the minimum information necessary to meet the statutory or court mandate; and

(8) The program/agency shall notify the victim of any disclosure and to continue taking steps to protect the victim's safety and privacy.

(b) A valid written release form for disclosure of client information shall have, at a minimum, the following elements:

(1) The specific name or general designation of the program or person permitted to make the disclosure;

(2) The name and title of the individual, agency or within the organization to which disclosure is to be made;

(3) The name of the client whose records are to be released;

(4) The purpose of the disclosure;

(5) A description of the information to be disclosed;

(6) The dated signature of the client or authorized representative or both when required;

(7) A statement of the right of the client to revoke the release in writing and a description of how the client may do so; and

(8) An expiration date, specified event or condition which, if not revoked before, shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given. ~~In no event shall the waiver extend for longer than sixty (60) days.~~ The reasonableness of this time period will depend on the specific situation.

(c) "In the event of my death" clause: Some programs have chosen to talk with clients about the lethality of human sex trafficking and ask if they would like the program to share information with police, prosecutors, the Oklahoma Fatality Review Board, or others the client may indicate in the event that the client dies (due or not due to ST). Because clients may have to sign multiple releases, programs shall have the "in the event of my death" exception on a different form.

(d) The program shall have written policies and procedures to ensure confidentiality of client information and identity and shelter location and govern the disclosure of information including verbal disclosure contained in client records. When a client record is established, the program shall discuss the confidentiality requirements with each client and maintain documentation in the client record that they have reviewed the circumstances under which confidential information may be revealed.

(e) Compliance with 75:30-5-4.1 shall be determined by a review of the program's policies and procedures; and on-site observation of the handling and review of client records.

SUBCHAPTER 8. TECHNOLOGY [NEW]

75:30-8-1. Technology and system plan

(a) The agency shall have a written plan regarding the use of technology to support and advance effective and efficient service and business practices. The plan shall include, but not be limited to:

- (1) Hardware and software.
- (2) Security.
- (3) Confidentiality.
- (4) Backup policies.
- (5) Assistive technology.
- (6) Disaster recovery preparedness.
- (7) Virus protection.

(b) Compliance with 75:30-8-1 shall be determined by a review of the facility policies, performance improvement plans and technology system plan.

SUBCHAPTER 11. PERSONNEL AND VOLUNTEERS

PART 5. TRAINING

75:30-11-12.1. In-service and ongoing training for personnel and volunteers

(a) A certified program shall have policies and procedures mandating, at the minimum, twenty-four (24) hours of annual training of all staff which shall include:

- (1) Confidentiality, to include verbal confidentiality whether inside or outside the facility and client records;
- (2) Facility safety and disaster plans;
- (3) First aid kits and fire extinguishers, their location, contents and use;
- (4) Universal precautions,
- (5) Client rights;
- (6) Legal and ethical issues;
- (7) Trauma; and
- (8) The remaining hours of annual training shall be related to human sex trafficking and administration as prescribed and approved by the Executive Director.

(b) A certified program shall have policies and procedures mandating a minimum of ~~four~~ (4) twenty-four (24) hours annual training of all volunteers providing direct services, related to human sex trafficking as prescribed and approved by the Executive Director.

(c) Staff and volunteers who provide indirect services and do not meet the requirements for staff and volunteers providing direct services as defined in OAC 75:30-1-2 shall receive annual training as prescribed by the Executive Director, but do not have a minimum number of training hours required.

(d) Documentation of training must include the topic of the training, the name of the trainer(s), the date of the training, the length of the training session, the sponsor of the training, and approval of the training by the Executive Director of the agency.

(e) A Certified Domestic and Sexual Violence Response Professional in good standing with the Oklahoma Coalition Against Domestic Violence and Sexual Assault (OCADVSA) shall be deemed to be current with annual training requirements upon completion of required annual training set forth in subsection (a) above. A copy of the current certification card issued by the OCADVSA shall be evidence of good standing.

(f) Compliance with 75:30-11-12.1 shall be determined by a review of policies and procedures; review of training records and other provided documentation of personnel training; and a review of personnel or volunteer records.

SUBCHAPTER 15. CLIENT RIGHTS, FOR ADULT VICTIMS OF HUMAN SEX TRAFFICKING PROGRAMS

75:30-15-2. Client rights

(a) Each client shall be afforded all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each program shall ensure each client has the rights which are listed below:

(1) Each client has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity;

(2) Each client has the right to a safe, sanitary, and humane living environment;

(3) Each client has the right to a humane psychological environment protecting the client from harm, abuse, and neglect;

(4) Each client has the right to an environment which provides reasonable privacy, promotes personal dignity, and provides physical and emotional safety;

(5) Each client has the right to receive services suited to the client's needs without regard to race, sex, color, religion, gender, ethnic origin, age, national origin, genetic information, religion, degree of disability, handicapping condition, or legal status;

(6) Each client, on admission, has the absolute right to communicate with a relative, friend, clergy, or attorney, by telephone or mail, at the expense of the program if the client is indigent;

(7) Each client shall have and retain the right to confidential communication with an attorney, personal physician, or clergy;

(8) Each client has the right to uncensored, private communications including, but not limited to, letters and telephone calls. Copies of any personal letter, sent or received, by a client shall not be kept in the client's record without the written consent of the client;

(9) No client shall be neglected or sexually, physically, verbally, or otherwise abused;

(10) Each client shall have the right to practice free exercise of religious beliefs, and be afforded the opportunity for religious worship that does not infringe on the health or safety of others. No client shall be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief;

(11) Each client has the right to be offered prompt, competent, appropriate services and an individualized service plan. The client shall be afforded the opportunity to participate in the creation of the client's service plan. The client may consent or refuse to consent to the proposed services;

(12) The records of each client shall be treated as confidential. This confidentiality remains intact even after the client's death;

(13) Each client has the right to refuse to participate in any research project or medical experiment without informed consent of the client, as defined by law. A refusal to participate shall not affect the services available to the client;

(14) Each client has the right to assert grievances with respect to any alleged infringement of these stated rights of clients, or any other subsequently statutorily granted rights;

(15) No client shall ever be retaliated against, or be subject to, any adverse conditions or services solely or partially because of having asserted her or his rights as stated in this section;

(16) Upon request, each client has the right to review the client's own records. Upon written request, each client has the right to receive a copy of the client's records or authorize an attorney or other person to do so. The program must provide a copy within a reasonable amount of time. The

portion of the client's records regarding mental health or substance abuse treatment, shall be released pursuant to the provisions of 43A O.S. § 1-109 and 42 CFR shall apply;

(17) Each client has the right to know why services are refused and can expect an explanation concerning the reason why the client was refused particular services;

(18) Each client has the right to voluntary services which are self-determined; and

(19) Each client has the right to decide whether or not to participate in supportive services offered by the program.

(b) Each client shall be given a copy of these rights and the provision of such shall be documented in the client record.

(c) Programs shall have written policy to ensure each client is afforded, and has explained to him or her, these rights.

(d) Client rights shall be visibly posted in client areas of the facility.

(e) The OAG, in any investigation or program monitoring regarding client rights, shall have unimpeded access to clients, program records and program staff or volunteers.

(f) Compliance with 75:30-15-2 and applicable federal laws and regulations shall be determined by a review of program policies and procedures, client records, on-site observation, written agreements, and/or other program documentation.