

Confidentiality Considerations for DVL Program

The Domestic Violence Liaison (DVL) program is a collaborative program which encourages opportunities for skill building and co-practice at the intersection of child welfare and domestic violence.

Section 1: Definitions of privileged communication, informed consent, and confidentiality.

DVLs are aware of their responsibility to report incidents of abuse and neglect pursuant to N.J.S.A. 9:6-8, and understand the need for those who work in child welfare to gather information to make decisions related to safety, well-being and permanency for the children and families with whom they are involved.

In many situations, a case consultation with a DVL may help to prepare a Division of Child Protection and Permanency worker (hereinafter, DCP&P or “worker”) to gather necessary information from the non-offending parent (NOP) and respond to her effectively and independently in the field. At other times, a joint field response where the DVL and the worker are both involved in a conversation with a non-offending parent allows a sharing of information that eliminates confidentiality concerns. All field activities presuppose that there will be advance planning and coordination between the DVL and DCP&P staff, including planning for safety. DVLs may also assist workers to assess information obtained through either a joint response or an individual worker’s response to inform their decision making. This assessment process is dynamic and reflects changes in the level of danger and risk in response to changes in family’s circumstances and DCP&P interventions.

DCP&P workers are authorized to share information with a DVL to help them manage a case or provide a service to the family. N.J.S.A. 9:6-8.10a (1) (b) (5)

DCP&P workers looking for help with assessment, planning, etc. (case consultation) should consider the value of a three-way conversation (worker, NOP, DVL) to obtain needed information and avoid confidentiality problems. Under the terms of state statutes, a DVL may share only that information which a non-offending parent wishes to be released. In these circumstances, a DVL must obtain written permission from the non-offending parent about specific information that can be shared, to include any limitations on that information sharing.

When a non-offending parent chooses to exercise her option to have a confidential conversation with a DVL, federal funding for DV services and state statutes and regulations governing direct Domestic Violence services define what remains confidential. For example, The Violence Against Women Act Reauthorization 2005 42 U.S.C. § 10601-10607, requires that grantees protect the confidentiality of personally identifying victim information. Personally identifying information is *information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including . . .*”

- Name or address
- Contact information (postal or e-mail, internet address, telephone, or facsimile)
- Social Security number or date of birth

Confidentiality Considerations for DVL Program

- ▣ Racial, ethnic or religious identity
- ▣ Any other combined information that *“would serve to identify an individual”*

The State of New Jersey also protects this information at N.J.S.A. 30:14-13 Confidentiality for persons Seeking Shelter Services:

“Information which may reveal the identity of a person seeking shelter services shall not be disclosed, except as otherwise specifically required by law or with the consent of the person seeking shelter services” (emphasis added.)

Additionally, One-on-one contact between a DVL and a non-offending parent is privileged communication pursuant to, N.J. S.A. 2A:84A-22.13 to 22.16 and N.J.R. E. 517, regardless of what the DCP&P worker had in mind when they made the referral (i.e. safety planning vs. help with assessment.) The confidentiality and privilege requirements are the same as if non-offending parent is referred to the DV program for services. Here again, the DVL must assert the privilege unless otherwise required by law or with the informed consent of the victim.

Informed consent requires:

- ▣ Written consent needed to share information N.J.S.A. 2A:84A-22.15. Verbal consent may be obtained in very limited circumstances.
- ▣ Written release of information is to be time limited and to address limitations on information that may be shared
- ▣ In rare circumstances in which a DVL has contact with a child or adolescent and obtains information from them, a separate written release of information from the parent is required. However, under the Victim Counselor Privilege, a minor may waive privilege. N.J.S.A. 2A:84A-22.15.

If a confidential conversation occurs, DCP&P must understand and accept these statutory limits on the sharing of information. The somewhat common expectation that the DVL is able to provide a static assessment of safety or dangerousness is unrealistic. During a private meeting with a non-offending parent, the DVL may engage in safety planning and other strategies to increase safety for her and her children, and may also encourage the NOP to discuss these plans with DCP&P staff. If given permission by the non-offending parent, the DVL may provide the worker a list of topics covered in the confidential conversation without providing details, to confirm to the worker that, for example, safety planning has occurred. They may advise DCP&P staff on approaches to use when interviewing families where DV is a concern.

If there is no contact with the NOP by the DVL, and the consultation occurs one-on-one between the DVL and the worker, then that information is not confidential between the DCP&P worker and the DVL. However, information received by the DVL remains confidential to all other persons. N.J.S.A. 9:6-8.10a (1) (b)

Confidentiality Considerations for DVL Program

If a DVL has helped the worker through a case consultation, the NOP still has a right to a confidential conversation. DVL and worker may want to discuss how to have this happen most effectively (i.e. referral to a DV counselor in the DV program or DVL has conversation and adheres to privileged communication requirements)

Summary: DCP&P staff and the DVLs are involved in a process that allows for deeper assessment of family dynamics. The process is the product of DVL consultation and co-practice. Building skills and learning how to assess a family's situation in an ongoing fashion is the outcome for the DCP&P worker. The maintenance of confidentiality and privilege as outline above facilitates this process in the most ethical manner possible.

Section 2: Documentation

The DVL program recognizes that Confidentiality of victim information is essential two compelling purposes. 1) Protecting the privacy of a child and his/her family from the stigma that attaches to family victimization, and 2) to protect the child and non-offending parent from further victimization by the perpetrator.

The DVL produces no written point in time assessments. However, they may assist the DCP&P worker with dynamic, on-going assessment of danger, risk, and safety of children over the course of the family's involvement with DCP&P. (However, no confidential communications received from the NOP will be shared without the NOP's written consent in this process either) Such assessment will change as family circumstances change and as DCP&P interventions occur/change.

If a **case consultation** is requested, information may be captured on the *Case Practice* form that will help the worker with the process of assessment. That form may be placed in the DCP&P record.

If a worker requests the DVL have a **confidential conversation** with the NOP, the DVL will follow informed consent process and request a release of information to provide the Direct Service form to the worker.

The NOP's address shall NOT appear on these forms due to the confidentiality requirements described above as well as the requirements of the Domestic Violence Protocol. The DCP&P worker should check in with the Deputy Attorney General about the redacting of information that may be required or provide additional safety to the children and/or NOP

Section 3: Parental Notification Log

N.J.S.A. 2C:13-4 states that it is a crime of the second degree or third degree if one parent take, takes, detains, entices or conceals a minor child from the other parent who is entitled to legal custody rights.

However, "It is an affirmative defense if the actor reasonably believed that the action was necessary to preserve the child from imminent danger to his welfare. However, no defense shall be available

Confidentiality Considerations for DVL Program

pursuant to this subsection if the actor does not, as soon as reasonably practicable but in no event more than 24 hours after taking a child under his protection, give notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Child Protection and Permanency in the Department of Children and Families;

1. That a parent having the right of custody reasonably believed he was fleeing from imminent physical danger from the other parent provided that the parent having custody, as soon as reasonably practicable:
2. Gives notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Child Protection and Permanency in the Department of Children and Families; . . .”

The Parental Notification Log was created to document situations when a victim of family violence reports to DCP&P that they are fleeing with a child/dren because there is danger to the child (ren) and/or her/himself. These calls are logged at the State Central Registry (SCR). If there is an open case with DCP&P, the notification is logged as Related Information and the worker is notified. For safety reasons, this information is confidential and should not be shared outside DCP&P