

CONFIDENTIALITY

CHAPTER 3 **PROTECTING SUBSTANCE USE PRIVACY,** **CONFIDENTIALITY, AND INFORMED CONSENT**

AT THE INTERSECTION OF DOMESTIC VIOLENCE AND SUBSTANCE USE
A Toolkit for Hope, Healing, and Advocacy for Family Justice Centers



INTRODUCTION

The *At the Intersection of Domestic Violence and Substance Use: A Toolkit for Hope, Healing and Advocacy for Family Justice Centers*, is one of a series of resources developed to support the provision of more holistic, hope-centered, and trauma-informed substance use advocacy and services in Family Justice Centers.

PURPOSE

- 1 This toolkit serves as an accompaniment to *At the Intersection of Domestic Violence and Substance Use: Hope, Healing and Advocacy for Family Justice Centers*, [an 8-part Virtual Learning Series located on the Alliance's HOPEHub training platform](#).
- 2 The Virtual Learning Series explores the role of substance use in the lives of survivors, and offers a framework and resources for advocates and others working with and nurturing hope in FJC clients who experience substance use as part of the trauma or victimization they face from an abusive partner.
- 3 This toolkit offers a comprehensive array of resources, guidance, examples, and tips to enhance the implementation of the lessons offered through the Learning Series.

RESPONDING TO THE NEED

Many survivors of domestic and sexual violence are exposed to substance use, either through their own use, the use of a partner or ex-partner, or both. So often substance use by a survivor is directly related to trauma they have experienced as a result of victimization. Historically, Family Justice Centers have generally not included substance use services onsite, much less included substance use services with an understanding of victimization.

In 2018, the U.S. Department of Justice Office on Violence Against Women (OVW) recognized the challenges many advocates within Family Justice Centers and similar co-located service centers faced in providing services and advocacy to survivors experiencing substance use and substance use coercion. In response, OVW created the Substance Use and Family Justice Center Pilot Project with the goals of:

1. Increasing the capacity of Family Justice Centers to serve clients who experience substance use, substance use disorders, and substance use coercion.
2. Building relationships between substance use disorder treatment providers and FJC staff.
3. Increasing awareness, knowledge, and collaboration in an effort to create a more trauma-informed, hope-centered, and robust response to address the complex needs of survivors dealing with substance use-related needs.

PROJECT PARTNERS

The Substance Use and Family Justice Center Pilot Project is a collaboration between [Alliance for HOPE International](#) (Alliance) and the [National Center on Domestic Violence, Trauma, and Mental Health](#) (NCDVTMH), working in partnership with:

[Strength United Family Justice Center in Van Nuys, CA](#)

[Crystal Judson Family Justice Center in Tacoma, WA](#)

[Essex County Family Justice Center in Newark, NJ](#)

Our partners at the Crystal Judson Family Justice Center, the Essex County Family Justice Center, and the Strength United Family Justice Center have provided vital insight and ongoing guidance in all aspects of this project, including the development of this toolkit.



PROTECTING SUBSTANCE USE PRIVACY, CONFIDENTIALITY, AND INFORMED CONSENT

CLICK TO ACCESS THE VIRTUAL LEARNING SERIES: LESSON 3

PROTECTING SUBSTANCE USE PRIVACY

- Substance use information has special protections in order to protect people from:
 - Stigma
 - Negative consequences if they seek help
 - Having their substance use information used against them in legal proceedings
- Substance use confidentiality is a safety need for survivors because of the ways that their substance use information is used to isolate them from sources of safety, stability, and support, as well as to threaten their connection with their families

MANDATED REPORTING OF SUSPECTED CHILD ABUSE OR NEGLECT RELATED TO SUBSTANCE USE

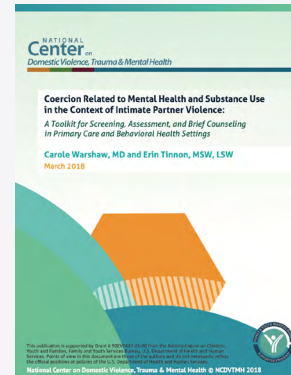
- Mandated reporting requirements can vary according to a staff member's role as well as local statutes
 - **Roles:** Some roles (such as attorneys or DV advocates) may have extra confidentiality protections
 - **Statutes:** What falls under mandated reporting varies widely across states and territories, including differences in whether substance use during pregnancy or by a parent/guardian falls under mandated reporting requirements
- Stigma related to substance use (as well as DV) can contribute to increased involvement in child protective systems; at the same time, it's important for staff to remember that substance use is not an indication of unsafe parenting or caregiving (Child Welfare Information Gateway, 2021)
- For more information on parental substance use, visit the section titled [Supporting Survivors as Parents](#)
- VAWA Confidentiality Requirements / VOCA

TIP SHEETS

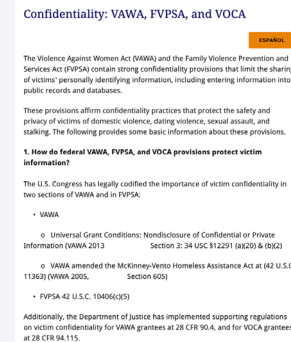
- [Best Practices in Substance Use Confidentiality](#)
- [Mandated Reporting and Substance Use: Key Action for Administrators](#)
- [Trauma-Informed Mandated Reporting: Key Action for Mandated Reporters](#)

CLICK BELOW TO ACCESS THE RESOURCES

NCDVTMH'S TOOLKIT ON COERCION RELATED TO MENTAL HEALTH AND SUBSTANCE USE IN THE CONTEXT OF INTIMATE PARTNER VIOLENCE



NNEDV'S CONFIDENTIALITY: VAWA, FVPSA, AND VOCA



CHILD WELFARE INFORMATION GATEWAY MANDATORY REPORTERS OF CHILD ABUSE AND NEGLECT



NNEDV'S SAFETY NET PROJECT

Safety Net Project

Exploring technology safety in the context of intimate partner violence, sexual assault, and violence against women.

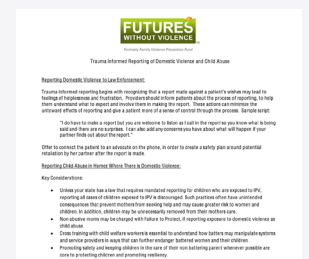
The Safety Net Project develops resources and information on the use of technology for agencies and survivors of domestic violence, sexual assault, stalking, and trafficking. The toolkits below contain helpful information for victim service agencies and survivors.



CHILD WELFARE INFORMATION GATEWAY STATUTES SEARCH



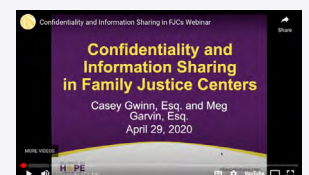
FUTURES WITHOUT VIOLENCE TRAUMA-INFORMED REPORTING OF DV OR CHILD ABUSE



SAMHSA SUBSTANCE USE CONFIDENTIALITY REGULATIONS



ALLIANCE WEBINAR BY CASEY GWINN AND MEG GARVIN:



BEST PRACTICES IN SUBSTANCE USE CONFIDENTIALITY

1. Informed written consent is required in order to share or exchange any information that may suggest a history or current substance use.

a. The written consent to release information includes (at a minimum):

- i.** what information is to be shared
- ii.** who is authorized to release this information
- iii.** to whom can it be released
- iv.** for what purpose
- v.** the dates during which the consent is valid
- vi.** how to revoke consent

2. Even with consent, information is only shared when there is a need to do so in order to support the person accessing services in their self-defined goals.

3. Documentation regarding substance use is limited to what is needed or required in order to support the person in their self-defined goal(s).

4. Any documentation of a survivor's substance use also includes attention to:

- a.** A survivor's strengths, coping strategies, and observations of their ability to care for and protect their children and other family members
- b.** The relationship between these concerns to the abuse and victimization they've experienced
- c.** The potential for these concerns to subside when the person is safe and connected to desired resources
- d.** Any attempts by an unsafe partner or ex-partner to interfere with, control, or sabotage a survivor's engagement in recovery, recovery services (such as treatment), and other services (such as housing, medical care, etc.)

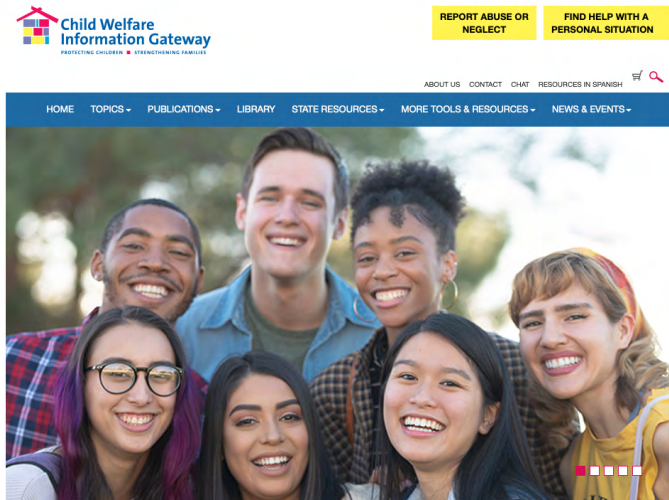


MANDATED REPORTING AND SUBSTANCE USE

KEY REPORTING ACTIONS FOR ADMINISTRATORS

1. Know what the requirements are in your municipality.

- Consult with the local child welfare agency.
- In the U.S., you can also consult the [Child Welfare Information Gateway Statutes Search](#).



2. Consider whether different staff members have different levels of confidentiality protections based on their role.

- If so, then consider how this informs your Center's overall procedures, including screening, assessment, resource navigation, data storage, and information sharing.



3. Create policies and protocols to reflect legal requirements as well as protect confidentiality.

- In creating program and documentation flows, ensure that survivors are informed of their confidentiality rights and the limits of confidentiality (including mandated reporter requirements) prior to staff asking them questions or collecting their information.



4. Ensure staff have the necessary training and support to implement established policies and procedures.

- Work to eliminate stigma related to parental or perinatal substance use within center staff and services.
- Prepare and support advocates to be able to assist and advocate for survivors who may be impacted by child protective systems.

TRAUMA-INFORMED MANDATED REPORTING

KEY REPORTING ACTIONS FOR MANDATED REPORTERS

Prior to asking questions and/or offering services, explain:

1. Confidentiality rights
2. The limits of confidentiality
3. Mandated reporting requirements



If a report needs to be made:

1. Openly discuss the need to make a report with the individual
2. Invite the person to be present when the report is made so that they can observe everything that is said, offer any information they would like to have included, and ask questions



3. Describe what is likely to happen after a report is made

a. If the next steps are unclear, seek clarity from the child welfare agency



REPORT ABUSE OR
NEGLECT

FIND HELP WITH A
PERSONAL SITUATION



b. This resource from the [Child Welfare Information Gateway](#) can also help clarify the process: [How the Child Welfare System Works](#)

4. Ask if/how they would like to receive updates



5. Offer advocacy support, including safety planning, active resource connections, and system advocacy

a. Survivors may be at increased risk of danger from an abusive (ex-)partner when there is child welfare involvement. Ongoing [safety planning](#) and advocacy are especially important during this time



HOPE

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