

Corrections Agencies and Rape Crisis Centers Working Together

Five Things to Know About Confidentiality

1 What Confidentiality Means

Confidentiality describes the state of keeping information private or secret. It refers to information a person shares with a professional that cannot be divulged to a third party without the consent of the individual. In the rape crisis field, counselors have an ethical duty — often protected by law — to keep information shared by sexual abuse survivors confidential.

2 Confidentiality is in the PREA Standards

U.S. detention facilities are required to comply with national standards to address sexual abuse, which were developed under the Prison Rape Elimination Act (PREA).¹ The PREA standards require that facilities make confidential emotional support services available to the people in their custody. Agencies are required to develop memoranda of understanding with community organizations that are able to provide such services. The standard further requires facilities to “enable reasonable communication” with organizations providing

these services “in as confidential a manner as possible,” and to inform inmates of the limits to confidentiality.

The PREA standards clearly reflect the value that the Department of Justice places on confidential services for incarcerated survivors, while recognizing that there are barriers to developing these services in detention facilities. For example, while a rape crisis center might be able to guarantee that it will maintain confidentiality of information received through telephone services, the survivor’s call may be overheard by other inmates or prison staff.

There is also a difference between contact confidentiality and content confidentiality, which becomes important in a detention setting. Rape crisis counselors can guarantee content confidentiality — that when they meet with a survivor for in-person services, they will only divulge information to a third party with the survivor’s permission or as required by law. They cannot guarantee contact confidentiality — that no one at the prison will discover that a survivor is meeting with a rape crisis counselor.

3 Confidential Services Make Corrections Facilities Safer

Sexual abuse survivors are more likely to reach out for help if they can do so confidentially. During a first call to a rape crisis center, survivors are often overwhelmed and need help deciding what to do next. A counselor can validate their feelings, review their options, and help them develop a safety plan.

For corrections officials, whose job is based on knowing about everything that happens in their facilities, the idea that a prisoner could disclose sexual abuse confidentially to a counselor can seem alarming. Their concern makes sense given corrections officials' duty to keep inmates safe; however, confidential services are not a threat to facility safety. Speaking confidentially to a counselor does not make survivors less likely to report the abuse to officials. On the contrary, facilities that enable the highest level of confidential services send a strong message about staff's commitment to ending sexual abuse and keeping survivors safe — a commitment that promotes inmates' trust in staff and contributes to safer facilities.

4 Talking About Confidentiality in Multi-Disciplinary Teams is Not Always Easy

Corrections officials and rape crisis counselors approach discussions about confidentiality from opposite directions. Rape crisis counselors must maintain confidentiality unless they have legal

grounds that permit or require them to breach it. In contrast, corrections officials are required to report any knowledge or suspicion of sexual abuse or sexual harassment. Rape crisis counselors and corrections officials have equally strong feelings about their perspectives, which are rooted in the core values of their professions.

When attempting to develop a written agreement about services for incarcerated survivors, both rape crisis counselors and corrections officials must be prepared for challenging conversations about confidentiality. Each partner should start by assuming that the other has good intentions, and by understanding that safety and security and confidential services for survivors are compatible.

5 It's Worth the Effort

Incarcerated survivors need and deserve confidential support from rape crisis counselors. Even if complete confidentiality cannot be maintained, survivors should be given adequate information about services available, and any limits to confidentiality, so that they can determine for themselves if they want to reach out for help. Sexual abuse is traumatizing and intensely personal, and most survivors never report. When survivors receive compassionate, nonjudgmental support from an advocate whose only concern is the survivor's well-being, they are much more likely to begin to heal. They will also be more likely to trust staff, seek other support inside the facility, and get help when they are released.

Corrections officials and rape crisis counselors must work together to make sure survivors behind bars get the same high quality, confidential services that are available to survivors in the community. The PREA standards require it and it's the right thing to do.

Endnotes

1. National Standards To Prevent, Detect, and Respond to Prison Rape, 28 CFR 115 (Department of Justice, 2012), available at: www.federalregister.gov/a/2012-12427

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