

From: coalitionpolicy@lists.nnedv.org <coalitionpolicy@lists.nnedv.org>

Sent: Friday, May 22, 2020 8:53 AM

To: coalitionpolicy@lists.nnedv.org

Subject: Re: [CoalitionPolicy] Virus Tracer Policies/Protocols

Hi Everyone,

Both NNEDV and VRLC are in the midst of drafting complimentary resources about confidentiality and contact tracing (an FAQ and a scenario flow chart of sorts). We'll be releasing those as soon as they're drafted and through the OVW approval process.

For now, here are some tips and other info to consider and remember:

- Contact tracers are hired from the local community. They could be family members or friends of survivors, or family members / friends of abusive partners. They could be abusive partners. Abusive partners could also pose as contact tracers as a way to try to get information from the local programs. There are numerous safety and privacy risks to survivors of domestic violence and sexual assault related to disclosure of their connection to a victim services program. Those risks don't change in the midst of a public health crisis. And it's those risks that inform the strict obligations that VSPs must abide by under VAWA, FVPSA, & VOCA.
- VAWA, FVPSA & VOCA require that victim service programs keep all survivor PII confidential. The only exceptions to this are when:
 - 1) A victim requests that the program share information on their behalf, and provides written, informed, time-limited consent to do so.
 - 2) A statutory mandate requires the program to share.
 - 3) A valid court order requires the program to share.
- Each state will need to closely examine whether the directives they're receiving to share information or participate in contact tracing are *statutory mandates* (i.e. laws that require them to do so), and if so, they should then carefully examine what the statute says and consult with an attorney about whether or not it applies to their program. If not, the program should let the contact tracer know that they have a law that requires them to keep all PII confidential, and ask if the tracer can show them a law that requires them to do otherwise.
- It's important to remember that if a survivor has tested positive, their physician or the health department will already be in touch with the survivor directly, and will be reporting the positive result to whichever authorities are collecting and tracking such information within the state or locality (i.e. there is no need for programs to report positive tests – the health care system is already set up to do this). They will then be in touch with the survivor to ask contact tracing questions. We encourage programs to

pro-actively talk about this with survivors so that they can be prepared to handle such a situation in a way that both protects the privacy of other at the program, and the health of the community. Ideally, here's how the scenario would play out:

- If a survivor tests positive for COVID-19 and is asked for information about who they've been in close contact with, they'll tell the public health worker they were at the shelter or program (they do NOT need to disclose that they were receiving services – there are many reasons someone would be at a program or shelter that don't include receiving services). Rather than providing names of people at the program, they can offer the name of the advocate they worked with or the name of the director at the program. The public health worker could then contact the staff member, and the program can notify the residents / folks receiving services / and staff at the program that someone (not naming the person) who has been on site (again, not needing to disclose that they received services) tested positive for the virus. This is similar to the way schools notify families when there's been possible exposure to certain diseases, without naming the individual who was sick and to what doctor's offices do in similar situations – simultaneously protecting privacy of their patients and the health of the community.
- It's also important for staff to be prepared for visits from public health workers who HAVE been given names:
 - If a public health worker shows up at the program or shelter asking to speak with specific people, it would be the usual protocol – “I can neither confirm nor deny if anyone by that name is here. But what I can offer is to get your name and contact information, share notice with the people here that someone who said they were here has tested positive for COVID-19, and offer you as a person they can reach out to with questions / concerns.”
- If a staff member tests positive for COVID-19, they should not share the names of anyone at the program or shelter, but rather follow the same procedure outlined in the first scenario above. Not share names, and provide notice to the program so that they can notify those who may have been exposed.
- We also encourage coalitions and local programs to work with their Departments of Health to put out guidance to health providers that even during this time of crisis, domestic violence programs are still obligated to protect the confidentiality of those seeking their services. If a patient discloses they are or were at a domestic violence program, they should not be asked to disclose names, but rather, should be asked for the name of the director or a staff member who can be contacted.

Please feel free to reach out with any related questions, and to share what's going on in your state or territory related to contact tracing and victim service programs. This is such an

important conversation and having a sense of what's going on and how each area is handling it is so helpful to sister coalitions and local programs across the country.

Best,

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Pronouns: they/them/theirs