

Praxis International –
Rural Violence Against Women

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Where Everybody Knows Your Name: Protecting Survivors' Privacy in Rural Areas

Speakers: Jessica Mindlin and Carol Schrader, Victim Rights Law Center

January 25, 2017

Hello everyone. Thank you so much for joining us today. It looks like we are at the top of the hour so we can get started with today's presentation. Thank you.

Thank you, Patricia. Hello and welcome everyone. This is our rural webinar on ending violence against women in partnership the office on violence against women. My name is Liz Carlson. I am the rural specialist at Praxis and I will be facilitating our webinar today. Today we are very fortunate to be joined for our presentation on survivor privacy entitled where everybody knows your name, Protecting Survivor Privacy in Rural Communities . We are joined by Jessie Mindlin, Esq. and Carol Schrader, Esq. from the victim rights Law Center. I am pleased to welcome you both. Are you with us? Are you there?

We are here.

I am very excited to be with you.

Great. Thank you so much. Before I go into a complete introduction of Jesse and Carol, I would like to first touch base on a few logistics for how this webinar will function. You will notice that there are captions at the bottom of your screen. We just ask for your patience if you happen to notice that there are occasional mistakes displaying in the live captions. We encourage your usage of the Q&A box. You will see in the middle column on your screen, you can use that in lieu of the chat box. Just be aware that as you are adding your questions and comments to the Q&A box, the responses will display to us as presenters only. We will do our best to integrate your comments into the conversation.

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Just be aware that this session is being recorded, and that if you would like any further assistance relative to webinars in the future, you should send an email to Liz at in the future, you should send an email to Liz@tran03international.org. I will help you to get prepped for webinars in the future. So with that, I am pleased to have an opportunity to introduce our speakers today, Jessie Mindlin, Esq. and Carol Schrader, Esq. from the victim rights Law Center . They are joining us today and bring a wealth of experience and expertise to our presentation. Jessie Mindlin, Esq. is victim rights Law Center national director of training and technical assistance. She has been active in the movement and interpersonal violence for more than 30 years. Before joining the victim Rights Law Ctr., Jesse was a staff attorney and clinical instructor at a number of organizations in a sexual assault taskforces, too many to name on this webinar right now. Certainly, refer to the publicity if you would like that complete list of organizations that Jessica has participated in and influenced.

Carol Schrader, Esq. is the staff attorney , a staff attorney, at victim rights Law Center. She provides national privacy technical assistance including training and consultation on privacy issues and sexual assault, domestic violence and dating violence, and [Indiscernible] cases – stalking cases. She has advocated for [Indiscernible] gender-based violence throughout her career, and we are pleased – I am pleased to have the two of you joining us today. Welcome Jessica and Carol. So glad you are here. Jesse, I think at this point, I will turn the presentation over to you to get us started.

Terrific. Thank you so much, Liz. Our thanks on behalf of both Carol and myself to you, too Praxis, and of course to the national Council on juvenile and Family Court Judges. Last but certainly not least to the office on violence against women for making it possible to us to be

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presenting this webinar today. We are really happy to be here today. I think one of the things that will become quickly evident is that we are super passionate about issues of privacy on behalf of survivors. Thank you also for not going through my entire resume because my experiences when people do that, I am like who is that woman Desmet woman? I have no idea. I don't recognize her at all. I will note just briefly that I moved to Oregon from the East Coast in 1981. First originally intending to live on 200 acres and in a very very rural Southern Oregon . I did that for a little bit of time and then spent about the next 18 months living on 50 acres in a small town about an hour away from the city. – The city investment I have some experience of what it is like to both live in in addition to doing the work with folks who are in rural areas.

Just a roadmap for our time together today. We are going to be talking about the difference between confidentiality and privilege and more broadly, privacy. What are some federal and state laws that will impact survivors privacy rights and interests? What is the impact of mandatory reporting for survivor with respect to privacy? Then hopefully sharing some additional or new ideas for protecting survivors privacy. That is our roadmap of where we will be going today. I went to burst of all say thank you so much to those who filled out the pre-webinar survey. It was really really helpful to us to get a sense of what your questions were, what situations you are trying to operate in, etc. Hopefully you will do the one at the end also because that lets us know whether we achieved what our objectives were. We would just like to start out with finding out a little bit about all of you who are on the call.

Patricia, if you go ahead and launch the ball – pull and tell us what describes you? Are you and advocate with a sexual assault and or domestic violence agency? Are you a lawyer with a sexual assault and or domestic violence agency? Are you an attorney with a legal services agency? Are you coalition staff, sexual assault nurse examiner, are you working with other [Indiscernible]. I am going to give it a minute or so to go ahead and let us know. It is always helpful that those little numbers come up so we can see how many folks are on the call and then how many are answering in the poll.

It is helpful. Jesse, I will indicate a couple of people have chatted into the Q&A box that they are grant administrators.

Thank you. Those numbers are going up. It looks like certainly almost 80% of you are advocates who are working with a sexual assault and or domestic violence agency. Much

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smaller but still significant percentage who are coalition staff work great. Patricia, thank you. You can go ahead and close out the poll. Thank you.

It is helpful to have a sense and hear a little bit about – for us to know a sense of who is on the call. I just want to share briefly with you a little bit of information about the privacy the a project that we have. I am so fond of saying 20 VW grantees that we get paid to serve you. We are funded by the office of violence against women to provide technical assistance, legal technical assistance around survivors privacy rights, interest, remedies, etc. What does that look like? First of all, we are always – not 24 seven – but closer to that than I want to admit sometimes. We are available by phone, email. We can help with doing legal research. Obviously, we are only admitted to practice and can provide legal advice in jurisdictions where we are not allowed to practice but we can help with research. We have all kinds of tools and templates. Carol is going to be talking a little bit later, mentioning our quick needed community response, privacy toolkit. It is pending right now for approval with to be W. We have charts and in fact, there is one that is the middle one that is listed under the materials section that you are welcome to download.

We provide referrals. I often joke that it is really not necessarily what I know, but it is just who I know. If we don't know the answer, we can help you – we consider it part of our job to connect you with the right folks. And we have sample pleadings. Something that particularly, I think, lawyers are [Indiscernible] a store when they have to file a brief on something but also advocates may want to be helping to secure a lawyer. For example, for a survivor. I know the easier they can make it for that lawyer to take the case and the more willing they may be to accept it. We provide technical assistance and just lots of different areas. We do individual case consultation. Folks call us for best practices or just to sample documents. Just to the other day, I had a request for what is the release of our information look like? It is OBW approved. It is in a civil complaint. It is bilingual . We had tried to also adapted to make sure that it is at a reading level that is comfortable for our clients, for most of our clients. That is a little bit about the TA privacy project and the ways we can help and our contact information was at the beginning of this PowerPoint. Obviously, you'll be getting or if you don't have it already. Also, I will mention that in the resources, the materials section that you can download, the title is the VR LCT a resource request form. That is just a summary. It is not all the resources we have, but enough of a list to give you a good sense of ways in which we can be helpful. I would like to hear from you in the question-and-answer box. Why do you

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think that victim or survivors privacy is important? Why does it matter? Why are we doing a webinar on it? Go ahead and use the Q&A box for that if you would.

A number of you are mentioning safety. Yes. Absolutely. I will say safety into regards. Safety both for the individual survivor. Also for survivors family members, but community safety as well. So we know, for example, the extent that we can find different ways to hold perpetrators accountable, that we are promoting both individual survivor plus community safety. Another note, confidentiality and trust – absolutely. Especially in the context of sexual assault and domestic violence. There is such a shame and blame game. What did you do to invite it? Why did you ask for it? Why did you stay? Why were you dressed that way? Why were you drinking? It is a long list. We certainly know that survivors are often the first to blame themselves. Others do it far too readily. So to the extent that we can help survivors reclaim the power and control over who has information about them and being able to have some sense of agency and autonomy and self-determination is really critically important for survivors. For many of them, it is really part of that pathway to healing, recovery. Survivors tell us it is important. In the sexual assault context, victims will tell us that they are more concerned about friends or family or coworkers finding out about the sexual assault the end they are concerned about getting a sexually transmitted infection or getting pregnant as a result of a rape.

I had one survivor who once said to us that privacy for a sexual assault survivor is like oxygen. Without it, you simply cannot breathe. We also know that in terms of our individual services, survivors won't come to us and neither will their family members or other support people if they feel that there is not confidentiality in those communications. It is a piece of why it is so critically important that they know in advance what is going to be happening to any information that gets shared. I didn't mean to do that outline. Let's see. I just think I messed this up for a moment. Let's see if I can get us back on track in terms of what you all can see.

Okay. We just wanted to give you some examples of some of the kinds of questions that we feel – questions that we get from the field. One of them is just what are the rules in each particular jurisdiction? They are different. Regarding offering services to teens without a parent's or guardian's permission. May they serve them? Is there a limit to the number of times they may be served? The answer to that is very jurisdiction specific and also, service

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specific. One answer for rape crisis intervention may be a different answer if it is a minor who is seeking a medical forensic exam. Again, we can help you explore what the laws are in your jurisdiction regarding those kinds of issues.

Another is are you required to report abuse if you learn about it when you are doing outreach at schools? An increase in the number of advocacy programs are going interest rules whether it is prevention work or awareness or healthy relationships. Just what are the parameters in terms of privacy or confidentiality or privilege with respect to any disclosures that they might be getting, and what could you be doing in advance to try and expand or increase the confidentiality of the students or the youth that you may be interacting with when you do that. Another common question is that we have helped – that we have helped with is what it the implications of an advocate sitting in during a police interview? Sometimes, it is a police interview. Sometimes, it may be during the medical forensic exam or a therapy appointment. What does that mean? What is the import in -- impact in terms of privilege?

Schools are becoming to be aware of their long existing allegations under title IX. Schools are saying everybody has to report anything that they learn about a sexual assault that may have occurred either involving anybody on the campus community. Is that true? Can the school say everyone must report -- under one circumstances -- what circumstances and when? Listenable dating violence or domestic violence, if you are in fact a mandatory reporter, and then another common question is is it okay if my client can't come to the office? May we get a verbal release of information? Carol will be going into this in more detail in terms of [Indiscernible] and your obligation. The short answer is no.

Again, we want to hear from you to make sure we are covering what is most used -- useful. What kinds of privacy questions or issues or challenges are you encountering in your work with survivors? What are kind of the sticky areas where you think -- it would really be helpful if you had some more technical assistance on those issues. Again, I am just going to give you a little bit of time to use the question-and-answer box. Even if you don't think of it now, if you think of it later during this webinar, feel free to write it up there. Of course, you could just follow up with us at any time also.

I am not seeing anything and the Q&A box. Here we go. One person wrote I am a newly hired advocate to I am really grateful for the webinar. [Laughter]. Good. I am glad. It is working on

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developing confidentiality. We are happy to help you do that or to provide samples, if that would be useful at all. Again, it would need to be specific to what the laws are in your jurisdiction. The folks who are providing services in your agency – that is certainly something that we can help develop and to provide feedback on if you haven't some forms already that you want to adapt. Go ahead and feel free to keep writing in those if you identify other areas that you would like some help with or challenges that you want to share. Either with us or other people on the webinar. Let's turn to specifically what it means to be addressing privacy issues for folks who are living in a rural areas or in rural communities. I want to start with what are some of the strengths about living in a rural area? There are some strengths and challenges. Let's start with what are the strengths for survivors who are living in a rural communities ? We certainly know there is some benefit – benefits.

While I am giving you a chance to write back, I saw that someone noted that they would like to know more about protecting confidentiality when agencies or programs are sharing the same space or what to do when you have professionals, for example, police officers, who are sharing survivors private information in very public spaces. How do address that? Sometimes, if there is an existing vehicle such as a [Indiscernible] or a CCR or domestic violence enhanced reduction team, that may be a place to address it. If it with law enforcement at [Indiscernible], sometimes, in that moment, you can say hey, I don't want to be hearing that private information. That kind of thing. In a later tone. It depends really whether it is an individual's program or a systemic issue that you think you are dealing with. In terms of some of the strengths, the fact that everybody knows everyone can be an advantage. It can also be a disadvantage. There is a strength in the sense that there is a sense of family, someone is noting.

The fact that everybody knows your business. Again, it can be two-sided. It can be a strength in that they could be looking out for you. It certainly can be a challenge in that everybody knows your business and is paying attention. Another note – it looks like we have some of the challenges here. I will come back to that one. Certainly, neighbors in a rural communities and know that they really need to be able to rely on one another, especially when they are great distances between the homes. So there is a sense of having an obligation to the folks who live around you.

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I think some of the other strengths are that people tend to know each other. You are not anonymous. Many of these are double-edged. There is a history of neighbors whether it is the barnraising or taking care of it somebody steals or animals. If someone is ill or is gone in the service or whatever. Of course, there are challenges to that. Some of them we talked about already. Everybody knows your business. It is difficult to get away. Privacy can be difficult. It is difficult physically to get a way because there is not a lot of public transportation. There are distances that are super great. You are not going to have a lot of choices the way you might in an urban community where there is a bus. There are cars. There are trains. We have taxis. We have Uber and left – lift and other car sharing services. Your voice. Literally, people may recognize your voice. It is very difficult to call domestic violence hotlines or a sexual assault hotline for help if the person on the other end will be able to recognize your voice. Some of you mentioned that you are in shared spaces. If you are using cubicles, and you are trying to speak with someone, your voice may be recognized. Even when we have walls, I remember when I used to work years ago at the coalition office, our wall didn't go over the way – all the way up so there wasn't even privacy within our offices.

Getting from one place to another. Internet asked Tess – Access can be very slow or nonexistent the same with self-service. There could be lots of dead spots. Everything from trying to reach out and get help to one of the things in some communities, if everybody knows who you are and you want to be able to get ongoing services or make referrals that protect survivors policy – privacy as well, what about getting services through the Internet? Whether that is through Google hangout or Skype or one of the other remote ways of doing face-to-face interaction virtually. If you don't have high-speed Internet, or if the only community – Internet you have access is at your local library, that certainly presents challenges in terms of their privacy.

We know there is often increased poverty in certain areas and money in which – ways in which money impacts survivors actions. Poverty is one way in which individuals are vulnerable. Not just not having money and limiting your availability services or finding a new home or get the support you need or to relocate, but also if you are working at a job that pays only when you show up for work. If you have no vacation or sick leave benefit or you can't afford to take time off from work to go to court to get – whether it is a protection order or to testify in a criminal case, etc. to get – whether it is a protection order or to testify in a

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criminal case, etc. There are just so many ways in which finances can impact a survivor's choices.

Again, the fact that – let's start with very basic tax – backs. They tend to reveal who you are. We talk about in terms of reporting we talk about personal you can find information, it may be specific tax in combination with one or two other facts that reveal who you are. An example from that if there was a shelter program once that sent out every West for baby close. It said we need clothing for a three-week – three-week-old twins. And that community, there was only one person who had given birth to twins three weeks prior. You might think that that is not personally identifying, but in that context, it is. We are looking for someone to help build a ramp to make our shelter program more accessible. Well again, depending on who lives in that community, it may inadvertently reveal who it is.

Then of course in terms of collaboration and referrals. It may be very difficult to find referral services for folks in the community, all of whom it know the survivor. We often would use a visual, seesaw, in order to get any kind of benefit, it always requires the survivor to disclose some information about themselves. There may be ways to control that may be to say this individual is a victim of a crime, rather than saying they are a victim of gender-based violence or even more specifically, a victim of domestic violence or a victim of sexual assault. They are a survivor, etc. Always just having to really be mindful in the – those ways. The smaller the community, there are some strengths, but there are many ways in which protecting survivors privacy is even more it – even more challenging.

Jesse? Can I just jump in for one quick thing? Two other issues that were raised in a Q&A box relate to legal status. Challenges within small communities and then also language challenges. Around having materials that have been written and are able to be provided to women at programs in other languages. So, if you have an opportunity at some point in the presentation to also mention the RLC's resources for language axis, that would be great.

Sure. It is on the TA privacy form. We do have a lot of information around confidentiality working with interpreters, working with translators. This actually just came up in our office yesterday. Someone – one of our staff attorneys wanted a copy of our confidentiality agreement that we have translators assigned before they translate any documents. I just reminded her because it is my habit. There is no reason – if there is no reason that the translator needs the survivor's name or the name of other family members, you can redact

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that from the document to be translated and then just plug it in afterwards. I will remind folks. Hopefully, you all know this but since you are funded by the federal government, you are legally required under title VI to provide meaningful access to anybody with limited English proficiency. There is specialized TA providers around them. Again, we can provide those referrals. I'm sure they're going to be questions that will come up on this webinar that we are just not going to have time to get to. You can always reach out to us afterwards, but I am just going to give that caveat right now. I'm going to keep us moving along and turn it over to Carol.

Thank you, Jesse. Thank you, Liz, and thank you everyone who is attending this webinar. We know that your time is valuable. You do such important work. Thank you for spending that time for us learning more about survivor privacy. Because protecting survivor privacy is a so important, we are going to dig in deep on that particular issue. We are going to take a look at how privacy confidentiality, and privilege relate to each other. I want to highlight that a couple of you noted in your pre-webinar survey that privacy lock can be complex. We are not going to share anything with you today that is going to suggests that isn't the case, but we hope to give you some guidance that will help you navigate that complexity and to reassure you that we are here to help you do that. That is what we do.

It is more complex in part because of the challenging context in which you do your work. We are going to touch on certain issues to highlight them as things we want to make sure you are thinking about. We want to let you know that we are here if you want to talk more about them. When I think about privacy, confidentiality, and privilege, the schematic that has three concentric circles of privacy on the outside, confidentiality in the middle, and privilege on the inside. It is helpful to me. I think of it as a single privacy disk and with the subparts of confidentiality and privilege. Sometimes, we use those words interchangeably, but there are distinctions that matter, and I will highlight those for you.

With privacy, I think of my busy as a general expectation that information is going to be kept private. It can be kept private because someone will choose not to share it, that they are keeping their information private. It can be that someone shares the information with someone else with an expectation that they are not going to share that. They are not going to make the information public. There is not a legal or ethical requirement that the person

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who received that information keeps it to themselves, but it is the right thing to do to maintain trust in the relationship.

If we moved to that outer broad ring a privacy, the confidentiality, confidentiality is a type of privacy, but there is a legal or ethical obligation to keep the information private. We will be talking more about those legal requirements for those of you who received [Indiscernible] money in a moment. It is privacy plus some kind of requirement in law or ethics that needs to be kept private. If we move into privilege, privilege is a type of confidentiality. It is a specific type of confidentiality that is rooted in evidentiary law. I want to pause for a moment to highlight – many of you weren't sure whether in your jurisdiction, many of you took the pre-webinar survey who participated in that, if sexual assault or domestic violence advocates in your jurisdiction are privileged, is survivor information shared with those advocates can be kept private? I can't tell you the answer to that because it is jurisdiction specific, but I can say that you really need to know that. Even if you are not one of those advocates but just so you can service survivors while and that they came get informed consent for services or when you make referrals. I encourage you later today or tomorrow at the latest, check your law or check with someone who knows it. You contact us and make sure that you are clear on that particular issue. We are glad to help with that.

So going back to privilege. This is a protection of private information shared between a professional and a survivor in the context we are discussing. -- In legal proceedings. The idea behind privilege is that some communications are so important that even if they are relevant in legal proceedings, they are still not admissible. The idea behind this is that it is important that when someone comes to certain professionals for help, that they are able to speak candidly so they can get the best possible service. Without a worry that what they are going to say will be shared publicly or with people they don't want to know the information.

Privilege belongs to the person who is sharing the information. For example, with the advocate survivor privilege, the privilege belongs to the survivor. It is up to the survivor whether or not that information will be shared. It applies to conversations, and it also applies to certain documents that may have private information. So that is what the privilege is generally speaking. You should know that it is rarely absolute. In legal proceedings, the person who is challenging the privilege cannot raise reasons why the information should be shared and the legal proceeding, but it is their responsibility to establish that it is legally

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appropriate. I don't want to get into that too deeply because I am imagining eyes glazing over all over the country. No with issues like subpoenas and other things, if you have a question, feel free to check in with us before you share information that you may not legally have to. You may. It is just important to be clear about that for your self and to be clear about who you are referring people to, who has a privilege with their communications.

One last point I'm going to make before moving on to another point, a related point, is that as I said earlier in the context of survivor advocate privilege, as an example, it is the survivor who holds that privilege. The survivor can intentionally waive that privilege and say something like it is all right at this information be shared. I want it to be shared or there are times where that privilege can be waived accidentally. That is what you want to be sure to avoid. What that might look like is if you imagine privilege as a protective bubble, there are two people talking within the bubble, if a third person comes in, the idea is that that bubble pops. The conversation isn't as a special in some context. It is described as a sacred. Because a third person there, that privilege no longer exists. You need to be careful about bringing people into a conversation if you are in a privilege relationship. Let's take a look at how that might happen.

With this particular slide, at the base, we have the survivor and then above, there is privileged provider one and privileged provider to. Let's say that privileged provider one is an advocate, and we're talking about a jurisdiction in which the advocate – the survivor and to the advocate have a privilege. I will indicate that with the red line. Let's imagine that privileged provider to is a lawyer. In this jurisdiction, the survivor and the lawyer can also have a privileged communication. The question that we are considering is could a survivor say something like I would like you advocate to talk with my attorney about this? Would that conversation between the advocate and the attorney be privileged? I want to ask you to answer in the Q&A box. How many of you think this conversation between the advocate and the attorney in your jurisdiction would be a privileged communication? While you are answering that, I want to say that we have, as Jesse had mentioned, some great tools for you access to help you answer these and other questions. I want you to highlight – I want to highlight at this moment that we have some just jurisdiction specific privacy cards that have information about whether or not these sorts of conversations would be privileged in your jurisdiction. I go to them often as my first place when I am answering someone's technical assistance Westerns so that – they are really helpful. I encourage you to let Jesse or me

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know if you would like to get them. They are available in English and in Spanish for every jurisdiction in the country. There are 36 or 37 of them. At the end, Jesse and my contact information will be there so you will know how to do that.

Okay. We have different answers. Mostly no. Someone noted that you will need to obtain a [Indiscernible] released to talk to the lawyer which is a good point to bring up. We're going to look more at releases any moment. Okay. Some of you are getting into some of the specifics for your jurisdiction. Thank you for sharing that information. You will just have to have – I can't tell you if you are right or wrong, but I want to use this exercise to highlight that it is different. It is something that you should look at for your jurisdiction. We're going to talk a bit about some laws and policies that impact privacy. Both on a federal and on a state, tribal, District of Columbia and other jurisdictions. We use this particular schematic to show how complicated it is. There are so many laws and policies that impact privacy. We have talked a bit about privilege and confidentiality. We are going to look more at mandatory reporting and title mind and VAWA. There are also prison rape elimination loss that have to do with privacy. Military reporting, student record laws, title IX, the affordable care act, Medicaid. Insurance and company policies, healthcare record laws. These are all things that can impact your work with survivors. Each of these red circles could be a webinar. We are just showing that yes, it is complex. There is a lot to it.

We're going to focus on some examples. We're going to divide our exploration into state and tribal laws and federal laws. Starting with state and – state and tribal laws. We are talking here about the District of Columbia and US territories. An example we're going to focus on and one that probably has the most bearing on your work is mandatory reporting. The first question to look at when thinking about your mandatory reporting requirements is to whom it do these laws apply? What we are thinking about here our children, child abuse related mandatory reporting laws. Elder abuse. Abusive adults with disabilities. Then we get into categories that our population specific, but our broader that have to do with things like if someone seems to be a danger to themselves or others. We would look – you would look for mandatory reporting laws that have to do with certain injuries. Then there is some reporting that needs to be done with sexually transmitted infections or other reportable diseases. These are examples of the sorts of categories into which mandatory reporting laws apply.

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And yet, we want to highlight, again, that this varies by jurisdiction. Most jurisdictions will have child-abuse reporting laws, but it gets a little less emphatic when you look at jurisdictions with things like danger to your self or others and certain injuries. That sort of thing. It is another example where you need to know your jurisdiction and were our jurisdiction specific privacy card can be helpful. We would like to ask you to participate in another poll. When you give the [Indiscernible] – teamwork with a referral, do tell them whether the other provider, the person you are referring to, is a mandatory reporting asked please take a moment to answer this question.

Okay. It looks like most of you either do show that information as part of your regular practice or you are not sure because you haven't really thought about it before. These are great answers for different reasons. I am especially glad those of you who aren't sure are participating in this webinar because our goal is by the end, you will have a sense of what will be appropriate. Thank you for that. Let's and that pull please. Now we are going to dig in pretty deeply here on mandatory reporting and how you need to think about it. Part of why we are going so deeply is the importance of privacy for safety and autonomy that you identified earlier really come into play with each step of this analysis of when you would need to find mandatory report and when those options are when they come up. Those of you who participated in the pre-webinar survey, identify that sometimes reporting is dangerous for their survivor. Is there a solution for this you asked what someone else said when someone calls the hotline for help, and we to make a report, that doesn't seem right. These are the sorts of challenges that you are finding in your work and a daily basis. We want to help you think about that now, about what are your options. What might help? The first question that you need to think about is are you a mandatory reporter? This is jurisdiction dependent. The sort of language that you might find in your statutes would say things like professionals need to report or the broadest one that I have seen is any person needs to report. It may be a public or private official needs to report. Then you may have either a subcategory of those broader categories or just a starting out of very specific detailed list of who needs to report. Check those in your jurisdiction so you know whether or not you're someone who has a legal obligation to report certain types of abuse. Think about when you are doing that, just because someone is required to report one kind of abuse such as child abuse does not necessarily mean that you or that person would be wired – required to report other abuse. You need to look at all the statutes.

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One last thing to look at when you are thinking about are you a mandatory reporter? Is does your log require that you be working in your professional capacity to make a report? For example, is it a question of you are seeing a survivor in your office, and the disclosure is made that would require a report. Or if you are out walking with a friend in the woods, and your friend makes the disclosure, and you need to report that? When are you or someone you are referring to a mandatory reporter? The next question that you would ask with this analysis is is the victim someone who's abuse must be reported? So this comes up with questions like you need to report child abuse of unemancipated minor? How old is an older adult in your jurisdiction? Is it someone who is 55 or older next 60 or older? 65 or older? With a person with disability, is it any disability, or does the law specified disability? Is answering context like a group home? What about people who are reserving -- receding service for addiction? We're really glad to help if you need help interpreting and what your responsibility is.

The next question is has this victim experienced abuse? You need to look and see how is abuse defined in your jurisdiction and be sure that this person has a suffered this sort of abuse that requires a report. An example of this is -- at least one jurisdiction has a requirement that someone must report serious bodily injury answering context. How is that defined? Is abuse just physical abuse or can mental or emotional abuse trigger a report? The next question to think about is are you exempt from reporting? This would typically come up in the context of you have a privilege that exempt you from reporting, but you want to be really careful about that also because in some jurisdictions, the law says we don't care that you have this privilege or we only care about certain privileges. We only care about clergy or we only care about attorneys. That is something you want to take a look at.

Lastly, when you are thinking about mandatory reporting, the question is what specifically must be reported? All jurisdictions specify to varying degrees what you need to report. Then there is usually a catchall phrase. You may have a catchall phrase. If you are receiving [Indiscernible] pending, and you have other reasons also that you can't report beyond what the statute requires. We are going to talk to little bit about that any moment. These are the questions we think are helpful to ask when you are thinking about whether or not you need to make a mandatory report.

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Then we practice tips that we have come up with that relate to mandatory reporting. We will have some other broader practice tips any moment. So first, you need to know when you are a mandated – when you are mandated to report and disclose this in advance. We talked about how you'll find out if your mandated to report. In addition to knowing the law in your jurisdiction, you need to have a conversation with your agency, especially when some of you who work there are mandatory reporters and others aren't. You need to know how mandatory reporting works for your agency given supervision or case management meetings, for example. However that works within your organization, whoever is or if you are a mandatory reporter, you need to tell back to the person you are serving immediately before they tell you anything of substance about what is going on with them. You would take away from the autonomy and safety possibly if they tell you something that then you say oh, I am really sorry, I have to report that. It is better to say what you can or can't report at the outset.

What referrals are mandatory reporters? It is very important when you are talking about referrals that you tell the survivor whether or not the person or agency you are referring them to is a mandatory reporter. You can know this from this look that you have taken at the law in your jurisdiction. You may want to have conversations with who make referrals. Keep in mind, they may not know. It is still a worthwhile conversation to have. If you are not sure, tell the survivor that you are not sure so that they can know just as when they were talking with you that they shouldn't bring up certain issues because you may need to report them but that may also be the case with a referral that you are making. I want to highlight briefly that this is not just her referrals but can also be when you are part of a what needed community response or other collaboration, you need to know who in the conversation is a mandatory reporter. We have some handy cheat sheet that we listed on our resources. The mandatory reporting flowchart, that could be helpful for you and some of these other resources. Take a look at all of them. We also do have, as Jesse mentioned, a coordinated community response toolkit that has other tools that can help you if you are part of the conversation and simple when needed community response. We don't have final approval, but if you let us know you are interested, we will get that QS as we can. Think about options that don't require reports. Know who in your area someone could talk with that won't trigger a report. That could be a clergy person. It could be a physician. It could be a person that has a different privilege than you especially if you don't have a privilege.

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Think about best practices. When you must make your report, and this will blur a little bit. You may not need to make a report. Things like telling someone when they are calling the hotline, if you are referring them to a hotline, that they may want to block their call. So therefore number isn't known to the person on the hotline. Think about whether or not to let 18 no -- to let a team at no the [Indiscernible] related to child abuse so the sharing of their age -- so they can be careful about what they say about how old they are. If someone is wanting specifically birth control but not other issues, for example, know who you are title X funded clinics might be. When you do have to make the report because there are times when you are going to have to make a report, think about first you need to know what happens in your jurisdiction. The law can say things like immediately, you need to make a report. Or as soon as it becomes practicable or not later than 48 hours after the time you know. That can give you and the survivor about whom the report will be made time to maneuver.

Know that sort of thing. Certainly, let victims know you're going to need to report in advance and when you will make that report. Find out what the legal requirements and usual practices are for the agency to whom you are making the report so you can let the survivor know what might or is likely to happen once you have made that report. Safety plan with the survivor. Work with the survivor to protect the privacy and safety of anyone affected by the release of information. Admittedly, that is a challenge in rural areas.

The best practice is to have a conversation with the survivor about whom you are going to need to make a report. Work with them about what will be said. Ask them what information they are comfortable sharing or if they want to share some of it. Make them a part of the conversation to the extent that they want to be engaged. So now let's take a look at a couple of federal laws. As a highly before, there are a bunch of them. We are just going to focus on to. The first is the violence against women act. We are focusing on regulations related to people who receive the funding from a VAWA . This also applies to those of you who receive [Indiscernible] or Voca funding as well. If you are receiving any of that funding, you may not disclose personally identifying information about someone who sought, receipt, or was denied services. Even if you did not serve the person, you can't reveal information that someone came in and asked for services or you denied them the services. Unless, and there are three exceptions, VAWA , [Indiscernible] and Voca allow release of information only if release is compelled by a statute that would typically be mandatory reporting statute, a court

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order, or the victim consent. That is the only time if you are receiving those funding sources from those funding streams that you can release personally identifying information. What are we talking about were talking about personally identifying information tax

we are talking about someone's name but more than that, it can be a student ID. It can be someone's address. It can be a drivers license number. It can be a passport number. If you are in a small community, it can be someone's religious affiliation because there are so few people who are practicing their religion. It can be a birth date. It can be an IP address on the computer. Sometimes, it is not that one of these pieces of information will identify someone personally, but it can be, combinations. There are studies that show if you have two or three of these bits of information, you can figure out just about who anyone is. Going back to the Internet, to be mindful, membership list can include people -- people's names, addresses, phone numbers, email contact information. There is a lot of personally identifying information out in the big world that it is important to think about.

So we identified earlier there are three times when information can be released under VAWA requirements. That is when a statute requires that a court has ordered it or the victim consents. If we have a consent for a victims release of information, VAWA requires that that be a written release of information. It does not allow a verbal release of information. It can be inconvenient at times, but it is still required. You may need to be creative about this given the transportation and other challenges that you are facing in rural areas. Jesse touched on some of those earlier, but can you get a screenshot of a signed release? Getting email is not always the cure. Are there any free apps that you can use that might be helpful? You have to think about those things.

What informed means in this context is that someone knows why they are signing the release and what might happen with that information if it is released to the other party. Things like length releases that survivors assigned. You can fill it in later with the information. That is not an informed release. It needs to be time-limited. That can range from an hour or two, if you know you just need to talk with someone and they are going to come meet with you. VAWA does not like releases that are for a duration of longer than a year. So let's say you're a situation where either because of mandatory reporting laws or other statutes or a court order, you have to release this personally identifying information. VAWA requires that you make reasonable attempts to notify the victims who will be affected

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by this release and that you take the steps need to take to protect the privacy and safety not only of the victim but of persons affected by the release of information. That gets back to the earlier discussion we had about best practices when that information needs to be released.

I want to highlight, this is what is required when you are mandated to report. If you are a permissive reporter, in some states, you may report certain things. VAWA and Voca and [Indiscernible] would not allow you to share the confidential personal – personally identifying information without the consent of the victim. If you do that when it is permissive and not mandatory, you are not complying with your VAWA or Voca obligations. At this point, I am turning things back over to Jesse.

Thank you so much, Carol. I just want to underscore that last point that Carol made because we often will here that from folks. They will say, we are not mandatory reporters, but our organization operates as if we were. Or we are not mandatory reporters, but the schools have said that if we are going to come in and do training, we need to report child abuse if it is disclosed to us. I am guessing that some of you may have encountered that kind of a circumstance. I just want to underscore what Carol said. All of you on this phone call are from organizations that receive funding through the violence against women act. VAWA says he may release personally identifying information in only three circumstances . Ran and informed survivor consent, statutory mandate, or court mandate. So your organization does not have the option of both receiving VAWA of funds and saying well our statute says you may, it is permissible, but we are going to operate as if it said you must. That is not an option. So Carol just want us to the violence against women act. I want to turn just very briefly to talk a little bit about education cases in title nine and privacy. Again, a caveat which is we can spend an entire day together. We could spend three days together just talking about sexual assault and students and campuses and the privacy context. I am going to be very up front. I'm not going to be able to do this justice, but I will walk you through hopefully just enough to flag it so you know when these issues arise to be thinking about them.

Just very briefly, what is title IX? Title IX is a federal law. It prohibits sex discrimination in the context of education and education opportunities. It applies to any school that receives any federal funding. It could be \$.25 of the federal funding. It could be federal funding in the form of not having to pay for the property where the school is located but being able to lease

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it for free. It doesn't make a difference how much it the school receives any federal funding at all for research, for student loans, etc. Our subject -- they are subjected to the requirements of title IX. It applies to schools, preschool all the way to post a secondary. Preschool, kindergarten, K-12. Vocational schools, technical schools, online schools. Anybody that receive that federal money. What it says, and I will come back to these, is that anybody who receives this federal funding may not -- has to address it their allegations or reports of sexual to screw nation at the school. What does that mean? That means that includes a sexual assault. A sexual assault is considered a form of sexual harassment. Sexual harassment is considered to be a form of sex discrimination. Once a school learns of a sexual harassment or it sex discrimination, they must conduct a prompt and equitable investigation and have an equitable response. They must take interim measures. They can't just sit back and say we're going to investigate this and what their investigation is complete, we are doing -- going to do something about it. They may respect survivor confidentiality once the report has been disclosed, but they have to balance that with their obligation to maintain a safe campus. We always caution folks, you can be assured of confidentiality or privacy of any kind on the campus once the powers that be receive a disclosure or report. Finally, in terms of well what is the standard that the school should apply if they are having a student code of conduct hearing, and the federal Department of education says that the standard is a preponderance of the evidence. Some of you may know that as the 51% rule or more likely than not -- it is not clear and convincing. It is not beyond a reasonable doubt. It is just a preponderance. It is a 50% plus one.

What does title IX have to do with confidentiality or privacy for survivors? One of the things that the Department of Education has stated in informed schools is that with respect to disclosures of the sexual assault, there are really three different categories of individuals. Responsible employees, persons with confidentiality, or persons with privilege. Typically, that biggest bucket is somebody who is a responsible employee. The federal government hasn't said definitively well these categories of people are responsible employees and these categories of people are not, but rather, they have left it to the school to decide. The guidance has been that responsible employees are employees who are either to have actual authority or are perceived as having responsibility or authority to take action to redress sexual misconduct or sexual harassment. It could be somebody that the student reasonably perceived as having that authority. That will differ with the age of the student. For example, a six-year-old is going to perceive the school janitor as being a person of authority and power

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and someone that when you tell them something, be a ministration will then have the information. A 26-year-old graduate student probably not so much if they tell someone who is the school janitor but certainly, they would expect that if they were telling a faculty member or if they were disclosing it to the Dean of students, for example.

That is the largest category. We will talk any moment in the next slide a little bit about a visual. The thing to know about responsible employees is that any information they learn about a sexual assault, they must disclose to the schools it title IX officer. A real important thing for survivors you are working with to our students to know is if they tell someone who is a responsible employee, that information is going to make it to the school administration. There is an interim level – practice with – persons with confidentiality. That is a category that the school may designate and say we are giving confidentiality to these people. For example, let's eliminate jurisdiction that doesn't have advocate privilege. The school could say we are going to make all the advocates who are students here or who work with us, we're going to sit there people of confidentiality. What is important about that is people with confidentiality have to report some information to the schools title IX officer, but they may withhold the survivors personally identifying information. That smallest category, people who have privilege. Privilege is a rule of evidence. It is afforded under either federal or state – either by statute most often. Sometimes, by case law. The school doesn't determine what these people do have privilege and to those people don't. That is something that already exist in the law. So what does it look like from the student's perspective?

If they telling responsible employee, greenlight. That information gets forwarded to the title IX with Nader. They tell a person with confidentiality. Than the non-personally identifying information will get forwarded. Unless of course the survivor once the personally identifying information forwarded on. In which case, it will go. Than if they tell someone with privilege, they have the right for that information to remain private. To remain confidential. To remain privileged. And to not be shared or forwarded to the schools title IX coordinator. We have a few minutes left. There are just a couple of things that I want to turn to in that time in terms of more specific practice tips.

First of all, I think Carol has done a great job already reminding you of this. It is so important to remind you of this again. You want to have a conversation with the survivor regarding the confidentiality and privacy and privilege if it exists. What we do if we bring our clients to our

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office and say this is what we way to do. Willing to understand what happens to any information that you might share with us. We are lawyers. We have attorney/client privilege. Some of you may have advocate privilege. Some of you may not. You want to make sure that that information is given to the survivor, or to whoever it is are working with before you make the disclosure. We talked about how important privacy is. You don't want to do that the ants which were someone discloses something and then you say oh I'm really sorry but I forgot to tell you, I have to report that to the state authorities. Don't overpromise. We often see, for example, on folks website. They say 100% confidential hotline or 100% confidential counseling. When I start to dig a little deeper with them and think you have folks working or agency for mandatory reporters when someone is a danger to themselves or to others or if a survivor of elder abuse – is a survivor of elder abuse or child abuse or a person with a disability rights they are like well yes, we have to report. Will then don't promise absolute confidentiality because you can't in fact carry out that promise.

You certainly need to be thinking about privacy when you are collaborating especially in rural communities. It may be that you don't disclose any tax at all. You just get information. I am working with a survivor who – you just say I need to know this and you don't even disclose it. It is about a specific survivor with whom you are working. In terms of having meetings, if everybody knows on the first Thursday of the month is the domestic violence support group at the local church, maybe it is time to think about where you have it or when you have it. It can be great if you are having meetings especially in rural communities to have them went there are other reasons for why a survivor might be at that space. For example, let's say this the first Thursday of the month at the synagogue or the mosque or the church but maybe that is also when there is the knitting club or board meetings. So there are multiple reasons why a survivor might be there. I touched earlier a little bit around the use of interpreters and translators. You always want to check back with the survivor afterwards to make sure that they felt comfortable with an interpreter that you were using. Also, before you use an interpreter or translator, ask the survivor – get the name and asked the survivor whether they know them. Don't assume that just because you are using the link which Lenin the person you're talking to is 15 states away that they won't know the survivor. Particularly, with some very small specific populations, there is very close connections. So the folks in Minnesota may know the folks in your community who are from that same country or of that – they speak of that same dialect. So you want to get that information in advance. Give it to the survivor. Figure out whether or not they know the person.

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Minors is just a whole other category onto themselves. Really just a flag here that the laws around what minors may consent to and what privacy rights they have are incredibly varied. They tend to be very complex depending upon the type of services. Don't always assume that just because a survivor has a legal right to consent that they had the right for that service to remain – remain confidential. We are always willing to work with you. So how can we help? I mentioned earlier, we provide training. We have these sample forms and policies. We have sample letters. We can do some thinking with you. We can do research, we have summaries. Carol mentioned that we have the jurisdiction specific privacy cards. We have 56 of those in English and 56 pending approval in Spanish with OBW right now. So one for every single state, District of Columbia and US territories. Those have hyperlinks to their mandatory reporting statutes in your jurisdiction. Some of you who are advocates, you may be mandatory reporters in child abuse, for example, or you may not be. Here in Oregon, advocates are not mandatory reporters. So that is very. We have flowcharts that we can share. We have tip sheets. All kinds of things.

I want to emphasize that one Carol mentioned earlier about the fact that favors releases of one year or longer, that is a very important provision because of vibrant circumstances change. They change respect to their safety, what they are comfortable having people know, it could be more, it could be more – less, it could be different. So having those invisible releases are great to force yourself to engage with a survivor and had that conversation. I know that we are really just at the end here in terms of time but we are easy to contact. We are here to help. We will be sharing our toolkit. Here is our contact information. As I mentioned at the very beginning, we love addressing privacy issues. So don't hesitate. We know that we covered a lot. We can help you with respect to lots and lots of different questions in terms of answering them, doing research, connecting with you – connecting you with folks. Don't hesitate. We are here – we get paid to serve you. Take you so much. If you want to use any of our materials, be happy to contact us. We just want to make sure they are current. Thank you for your amazing life-saving work that you do. We admire you, and we are grateful for everything you do working with the survivors. So Jesse, this is Liz.

I would like to also say thank you for the amazing and important work that you and Carol do at the victim rights Law Center. I am thrilled with this presentation and how we are able to utilize your expertise across rural jurisdictions. So thank you so very much. As you said, this could be a few days worth of a presentation just filed down very concisely into 75 minutes.

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Thank you for that. To all of you who participated today, please be certain, if you haven't done so already, to utilize the materials that are displaying on your webinar screen right now. Whether you download them or just take note of them and certain to contact the victim rights center with their contact information on the screen. They are a wealth of information about privacy law that we all need to utilize. So thank you again to all of you who participated, especially Jesse and Carol. Thank you. Take a big breath now. You had to cover a lot of content very quickly. Also, I will just remind you that this session has been recorded and will be posted on the rural recording webpage of the Praxis international website. You are certainly able to revisit it. When you disconnect from this webinar, you will be routed to the evaluation that Jesse and Carol particularly rely on relative to your feedbacks to this presentation.

So thank you for sharing your thoughts and comments about that. Look at your calendars to confirm that you would be available to join us for our next rural webinar, March 22 . You will receive publicity about that and the specific content and speakers. With that, thank you all of you. Keep up the good work. We will be in touch again soon. Thanks again everybody. So long.

Please do the survey's afterwards. They are so helpful to us. I can't say how much. So thank you in advance or filling those out. We learn a lot from them.

Very good. Thank you.

Thank you everyone.

Take care. Bye.

[Event concluded]