



# NCAI Fund Victim Services Micro-grant Program Confidentiality and Data Collection

OCTOBER 20, 2020

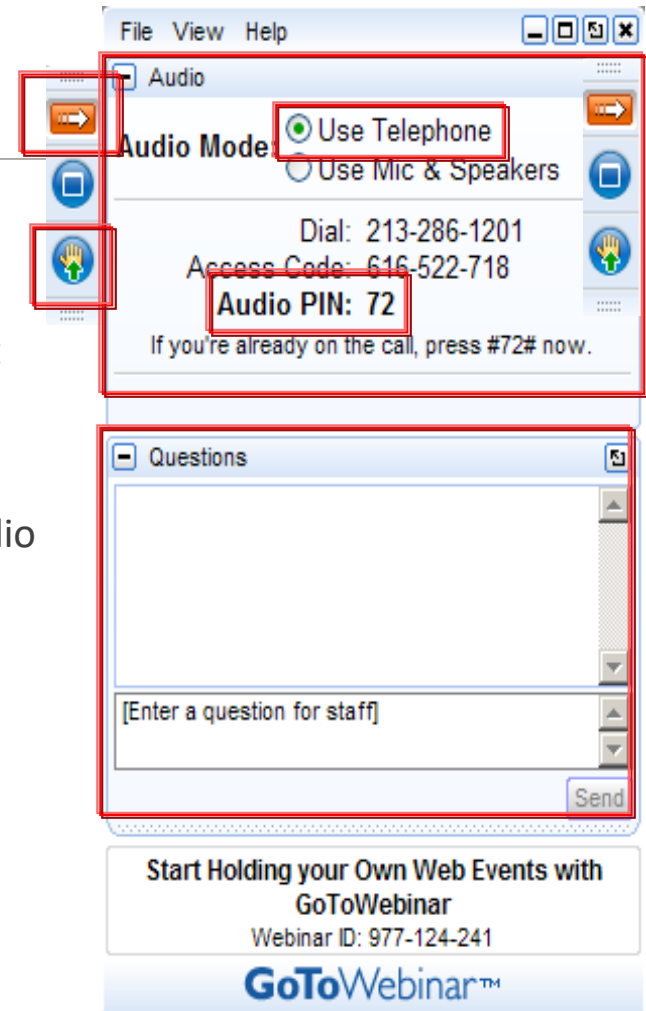
*This webinar was produced by the National Congress of American Indians Fund under 2019-VO-GX-K145, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this webinar are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice.*



# Before we begin...

Here are some friendly housekeeping reminders:

1. Your control panel will appear on your user screen.
2. To minimize the control panel, use the orange arrow at the top left panel.
3. All attendees will be muted during the presentation.
4. Once you call into the meeting call line, enter your Audio PIN shown on your control panel.
  - i. In Audio: you can view, select, and test your audio.
5. Use the questions box on your panel to submit questions and responses via text.
6. During the discussion portion, please 'raise' your hand by clicking the hand icon to signal to be unmuted.
7. Everyone will receive an email with a link to a survey about today's session.
8. A recording of the webinar will be made available on [www.tribalvictimsservices.org](http://www.tribalvictimsservices.org).



# Welcome

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Goal: This webinar will provide an overview of key program considerations, definitions, and requirements to ensure safety and accountability for working with victims of crime.

Panelists:

- Lonna Hunter, Tribal Victim Resource Specialist, Tribal Law & Policy Institute
- Heather Torres, Program Director, Tribal Law & Policy Institute
- Kelly Crowe, Project Director, FirstPic, Inc.

# Confidentiality and Data Collection

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- Confidentiality
- Gift cards
- Policies and procedures
- Sample Data Template

# Victim Confidentiality Definition

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“Confidentiality is a core principle that directly impacts safety and justice for battered women. When private information is shared, there is a shift in the balance of the relationship from the person sharing the information to the person receiving it.

How that information may be used or revealed to others directly impacts the battered woman’s safety and ability to seek justice. Sharing information about a specific battered woman threatens her autonomy and may threaten her safety, as well as her confidence in the domestic violence advocate and program”

*(from “Confidentiality: An Advocates Guides” by the Battered Women’s Justice Project)*

# Confidentiality and Reporting Requirements

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- Subgrantees must have a policy to protect the confidentiality of victims' names, addresses, telephone numbers and other identifying information.
- Subgrantees must submit quarterly performance measurement data (number of victims served, in the aggregate) to demonstrate that you are utilizing funding to serve victims of crime.
  - NCAI Fund and Office for Victims of Crime (OVC) will never require you to report personally identifying information.
- You may need to develop an internal control of how the funding is spent, what resources or referrals are provided by advocates, any transportation or mileage to/and from court, hospital, clinic, etc. for victims of crime.

# Confidentiality and Reporting Requirements-Victims of Crime Act and Victims Assistance in Indian Country

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## 28 CFR § 22.1 – Purpose:

(a) Protect privacy of individuals by requiring that information identifiable to a private person obtained in a research or statistical program may only be used and/or revealed for the purpose for which obtained;

(b) Insure that copies of such information shall not, without the consent of the person to whom the information pertains, be admitted as evidence or used for any purpose in any judicial or administrative proceeding;

...

(f) Insure the confidentiality of information provided by crime victims to crisis intervention counselors working for victim services programs receiving funds under (the Act).

# Program Reporting Period

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## **Award Period: October 1, 2020 to June 30, 2022**

- First Program Report due: January 8, 2021
- Program Report due: April 9, 2021
- Program Report due: July 9, 2021
- Program Report due: October 8, 2021
- Program Report due: January 7, 2022
- Program Report due: April 8, 2022
- Final Program Report due: July 8, 2022



# Sample of Data Template

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See Attachment of Sample Data Template.

# Confidentiality and Victim Service Programming

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There are a number of questions and considerations for confidentiality in your victim service program:

- What information can you share? What information can you not share?
- What if the advocate is related to or knows the victim?
- What if the advocate is related to or knows the perpetrator?
- How can our work harm or protect the identity of the victim?
- “Whose need does this meet?”
- “What purpose does this serve?”
- “How does this support my ability to hold myself accountable to the victim?”
- “How does this provide safety for the victim and offender (systems and community) accountability?”

For Native advocates, we can also ask:

*“How does this reflect my cultural beliefs and values, and reclaim the status of women as sacred?”*

# Confidentiality and Victim Service Programming (cont'd)

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- Once something is written down, it opens the door to breaches of confidentiality.
- Once written down, it becomes program property. Program property can be subpoenaed.
- Think about the impact that information could have in court in a child custody case or the like.
- There is no need for documentation of a victim's behavior, emotional state, parenting skills, observations, assessments of any sort, etc. That could be dangerous, if not inappropriate.

# Release of Information

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➤ When working with victims of violence, be sure you have consent to share information and are clear about what information will be shared and for how long.

➤ Sample Tribal Policy:

A. *Releases must be in writing, signed, and dated in ink. The written release must —*

- i. Be specific as to the information being released.*
- ii. Include the purpose for the information being released.*
- iii. Designate the individual or agency the information is going to.*
- iv. Specify a time limit for the release (which typically should not exceed 15-30 days).*

# Victim Confidentiality within a Victim Service Program

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**Internal Victim Service Policy:** This may be a document that gets signed by the advocate or employee of the tribal victim service program to uphold victim confidentiality. Including how to document case files to ensure a victim's confidentiality.

*Please note this does not involve treatment of children, if you suspect child abuse or neglect you are a mandated reporter.*

# Victim Confidentiality with Other Tribal Agencies

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**Policies and Procedures:** Your victim service program can document how other agencies work with victims and uphold confidentiality. This can be done in a collaborative approach such as in a Coordinated Community Response (CCR) model.

- Any number of challenges to confidentiality can be presented by other agencies.
- Memorandums of understanding and/or inter-agency policy and procedure can be developed while understanding victim confidentiality.
- The primary purpose of task forces or CCRs is about effective, consistent policy, procedure and should always be focused on the agencies, not the people they work with.
- A signed confidentiality agreement does not substitute for a signed release of information.
- Sharing information should always be on *a need to know basis*.

# Victim Confidentiality and Tribal Codes-Oglala Sioux Tribe

(as available at [https://narf.org/nill/codes/ogla\\_sioux/index.html](https://narf.org/nill/codes/ogla_sioux/index.html))

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## SECTION 222. Security and confidentiality of domestic violence shelters/programs; Restrictions.

1. The security and confidentiality of any domestic violence shelter/programs within the exterior boundaries of the Oglala Lakota Nation shall be recognized by the Court, Law enforcement, and other service agencies as existing for the safety of victims of domestic violence. Advocates and shelter staff will not substantiate, verify, or deny placement information or the whereabouts of any domestic violence victim, or his/her children, as afforded under the Victim – Advocate Privilege Act
2. Law enforcement Officers and /or criminal investigators will contact the domestic violence shelter program with any message for individual victims concerning investigations or victim information. Law enforcement Officers will not attempt coercion, duress, or intimidation of shelter staff or advocates to gain access to the shelter or information on the whereabouts of any victim. Any such attempt will be considered a violation of the Victim-Advocate Privilege Act, and any information gained from such an attempt will not be admissible in any Tribal Court proceeding.
3. No judge or officer of the OST Court will issue or initiate any search warrant, pick-up Order, Summons, Bench Warrant or any notice of Court proceedings specifying the domestic violence shelter program as the individual's residence and/or location. Nor shall the shelter or domestic violence program be named as a party in any Court action involving individual victims that may or may not be receiving advocacy services from the domestic violence shelter program, in accordance with the Victim-Advocate Privilege Act.
4. While the domestic violence shelter/program may not be named as party to any individual's Court proceeding, an individual may give permission for a domestic violence shelter/program advocate obtain Court paperwork on his/her behalf. Such action shall not be construed by the Court or Law enforcement to mean that the domestic violence shelter/program is a party to any Court proceedings, civil and/or criminal.

# Victim Confidentiality and Tribal Codes-Oglala Sioux Tribe

(as available at [https://narf.org/nill/codes/oglala\\_sioux/index.html](https://narf.org/nill/codes/oglala_sioux/index.html))

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## SECTION 224. Victim-advocate privilege applicable in cases involving domestic violence.

1. Except as otherwise provided in subsection 2, and in compliance with the Victim –Advocate Privilege Act, a victim of domestic violence may refuse to disclose, and may prevent an advocate, elder or medicine person from disclosing, confidential oral communication between the victim and the advocate and written records and reports concerning the victim unless the privilege is waived by:

(a) The victim; or

(b) The death of the victim.

2. The privilege does not relieve a person from any duty imposed in the mandatory reporting of child abuse or neglect. A person may not claim the privilege when providing evidence in proceedings concerning child abuse or neglect.

3. As used in this subsection, “advocate” means an employee of or volunteer for a program for victims of domestic violence who:

(a) Has a primary function of rendering advice, counseling, or assistance to victims of domestic violence; supervising the employees or volunteers of the program; or administering the program;

(b) Has undergone minimum of 40 hours of specialized domestic violence advocacy training; and

(c) Works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program.



# Gift Cards

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- There is a high level of scrutiny around the purchase and use of gift cards by DOJ and the Office of Inspector General (OIG).
  - Generic gift cards (*e.g.*, Visa gift cards) are not allowed.
  - Gift cards and vouchers can only be used for emergency needs. Cannot be used for staff.
- Must comply with internal controls around the distribution and use of these items. (Additional TA is available).
  - Must have a system for tracking distribution that upholds confidentiality.
  - Prior to expending funds on cards or vouchers, subgrantee shall submit a copy of subgrantee's internal policies and procedures regarding the purchase, storage and disbursement of cards or vouchers to the NCAI Fund and/or its technical assistance providers.

# Gift Cards (cont'd)

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- Proper purchase and use of gift cards, including the required documentation is needed for reimbursement of cards and vouchers.
  - There will be a limit on the amount of gift cards that can be purchased at the beginning of the grant. (We will provide further guidance as soon as possible.)
  - You will be required to submit proof of gift card distribution in order to request additional reimbursement beyond this initial amount.
  - We will provide additional guidance as soon as possible regarding the process for any unused gift cards at the end of the grant.
  - Past audits have questioned the amount of gift cards distributed compared to expected costs, so we recommend that you keep internal documentation to justify the distribution of all disbursements.

# Training and Technical Assistance Webinars 2020

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## Post-Award

- **November 5, 2020** Program Reporting Webinar at 10:00am PT/11:00am MT/12:00pm CT/1:00pm ET

## *STAY TUNED upcoming topics:*

- *Tribal Codes for Victim Services*
- *Community Needs Assessments and Privacy Certificates*
- *Strategic Planning*

# Questions?

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1. Use the questions box on your control panel to submit questions and responses.
2. 'Raise' your hand by clicking the hand icon to signal to be unmuted.

# Contact Info

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General questions:

➤ [microgrants@ncai.org](mailto:microgrants@ncai.org)

TA Questions:

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