

WCSAP Responds: Use of Survivor's Rape Crisis Center Records by Media

Recently, there has been media coverage about the 1996 sexual assault allegations against NFL Quarterback Peyton Manning that are now part of a Title IX lawsuit against the University of Tennessee. As part of this coverage, news outlets obtained and published records related to the survivor's contact with a rape crisis center.

Although this didn't happen in Washington State, advocates who work with survivors of sexual assault should be aware of the laws that protect survivors' privacy in our state. Confidentiality requires that sexual assault advocacy programs put policies and procedures in place so that the survivor, advocate, and organization can assert privacy rights when others try to gain access to survivors' information. Maintaining confidentiality requires that we continually evaluate how our actions and inactions serve to protect survivors' privacy rights.

Communication between survivors and advocates is privileged under Washington statute.¹ This means that an advocate cannot be required to disclose what a survivor told them in confidence. The records of sexual assault programs are also confidential.² In addition, sexual assault services funding requires that survivors' information be kept confidential.³ There are limited circumstances where information must be released without the consent of the survivor; the most common example is mandated reporting of child sexual abuse. In most cases, an advocacy program would not release records without the informed consent of the survivor.

There may be circumstances where a survivor wants to release their information from a sexual assault program. Survivors have autonomy to choose to disclose their information or release their records for any reason. Part of an advocate's role is to discuss the privacy issues with a survivor who may want to do this. A survivor should understand the benefits and also the risks associated; once information is released they will have limited control over what is done with it.

In the 1996 civil suit against Manning, the survivor's choice to release the transcripts of her own call to a rape crisis center may have been helpful; however, now her private call is available online with her direct quotes. It is an ethical responsibility of an advocate to review these considerations with a survivor when the survivor requests a release, and then for the advocate to follow the survivor's wishes related to their information, whether the survivor's choice is what the advocate would choose for them or not.

We hope this particular survivor, as well as other survivors of campus sexual assault, can find healing during this time of heightened media attention and public scrutiny.