

VAWA, VOCA, and FVPSA Confidentiality Laws: A Comparison Chart



The Violence Against Women Act (VAWA), the Victims of Crime Act (VOCA), and the Family Violence Prevention and Services Act (FVPSA) have similar, but not identical, confidentiality provisions. OVW- funded attorneys may need to scrutinize the differences in these federal laws to know which confidentiality requirements apply to the work they and their project partners do. The Victim Rights Law Center (VRLC) developed this VAWA, VOCA, and FVPSA Confidentiality Laws Comparison Chart to help lawyers easily identify the similarities and differences with these laws.

The laws included in this chart for VAWA and VOCA are, unless otherwise cited, identified at the top of the columns. The first two columns both pertain to VAWA: The first column has law from the *U.S. Code* and the second has law from the *Code of Federal Regulations*. The FVPSA statute and regulations are generally identical. The *Code of Federal Regulations* is only cited in the FVPSA column when there is significantly different language from, or added to, the *U.S. Code*.

Please contact the VRLC TA team at TA@victimrights.org with any questions about this Comparison Chart or other privacy questions that arise with your work with survivor-clients.

VAWA, VOCA, and FVPSA Confidentiality Laws

VAWA DEFINITIONS 34 U.S.C. § 12291	VAWA DEFINITIONS 28 C.F.R. § 90.2	VOCA DEFINITIONS 28 C.F.R. § 94.115	FVPSA DEFINITIONS 42 U.S.C. § 10406; and 45 C.F.R. § 1370.4
<p>(a)(24) Legal assistance</p> <p>(A) Definition The term “legal assistance” means assistance provided by or under the direct supervision of a person described in subparagraph (B) to an adult, youth, or child victim of domestic violence, dating violence, sexual assault, or stalking relating to a matter described in subparagraph (C).</p> <p>(B) Person described A person described in this subparagraph is-- (i) a licensed attorney; (ii) in immigration proceedings, a Board of Immigration Appeals accredited representative;</p>	<p>General Note: 28 C.F.R. 90.2(a) states: “In addition to the definitions in this section the definitions in 42 U.S.C. 13925(a) [since re-codified as 34 U.S.C. 12291] apply to all grants awarded by the Office on Violence Against Women and all subgrants made under such awards.”</p>	<p>The VOCA confidentiality provisions were modeled on the VAWA provisions.¹</p>	<p>[Relevant definitions for FVPSA start below.]</p>

¹ Federal Rule Effective 8/8/16: §94.115 Non-Disclosure of Confidential or Private Information. “Several commenters noted that OVC had not included a provision regarding confidentiality in the proposed rule, and suggested the OVC add such a provision. The commenters noted that the 2018 reauthorization of the Violence Against Women Act contained a provision, 42 13935(b)(2) [now 34 U.S.C. 12291(b)(2)], that many VOCA-funded organizations would have to comply with as a condition of the VAWA funding and suggested that OVC model its provision on that. OVC agrees and has done this in section 94.115 of the final rule.”

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<p>(iii) in claims of the Department of Veterans Affairs, a representative authorized by the Secretary of Veterans Affairs; or</p> <p>(iv) any person who functions as an attorney or lay advocate in tribal court.</p> <p>(C) Matter described A matter described in this subparagraph is a matter relating to--</p> <p>(i) divorce, parental rights, child support, Tribal, territorial, immigration, employment, administrative agency, housing, campus, education, healthcare, privacy, contract, consumer, civil rights, protection or other injunctive proceedings, related enforcement proceedings, and other similar matters;</p> <p>(ii) criminal justice investigations, prosecutions, and post-conviction matters (including sentencing, parole, and probation) that impact the victim's safety, privacy, or other interests as a victim;</p>			

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<p>(iii) alternative dispute resolution, restorative practices, or other processes intended to promote victim safety, privacy, and autonomy, and offender accountability, regardless of court involvement; or</p> <p>(iv) with respect to a conviction of a victim relating to or arising from domestic violence, dating violence, sexual assault, stalking, or sex trafficking victimization of the victim, post-conviction relief proceedings in State, local, Tribal, or territorial court.</p> <p>(D) Intake or referral For purposes of this paragraph, intake or referral, by itself, does not constitute legal assistance.</p>			
<p>(a)(25) Personally identifying information or personal information The term “personally identifying information” or “personal information” means individually identifying information for or</p>			<p><i>Personally identifying information (PII) or personal information is individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence,</i></p>

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<p>about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including—</p> <ul style="list-style-type: none"> (A) a first and last name; (B) a home or other physical address; (C) contact information (including a postal, e-mail or (D) Internet protocol address, or telephone or facsimile number); (E) a social security number, driver license number, passport number, or student identification number; and (F) any other information, including date of birth, racial or ethnic background, or religious affiliation, that 			<p>dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including, a first and last name; a home or other physical address; contact information (including a postal, email or Internet protocol address, or telephone or facsimile number); a social security number, driver license number, passport number, or student identification number; and any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual. 45 C.F.R. § 1370.2.</p>

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would serve to identify any individual.			
<p>(a)(50) Victim service provider The term “victim service provider” means a nonprofit, nongovernmental or tribal organization or rape crisis center, including a State or tribal coalition, that assists or advocates for domestic violence, dating violence, sexual assault, or stalking victims, including domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.</p>		<p><i>State Administering Agency or SAA</i> is the governmental unit designated by the chief executive of a State to administer grant funds under this program. 28 C.F.R. § 94.102.</p> <p><i>Sub-recipient</i> means an entity that is eligible to receive grant funds under this program from a State under this subpart. 28 C.F.R. § 94.102.</p>	
<p>(a)(51) Victim services or services The terms “victim services” and “services” mean services provided to victims of domestic violence, dating violence, sexual assault, or</p>		<p><i>Direct services or services to victims of crime</i> means those services described in 42 U.S.C. 10603(d)(2),² and efforts that -</p> <p>(1) Respond to the emotional, psychological, or</p>	<p><i>Supportive services</i> mean services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents that are designed to meet the</p>

² The citation 42 U.S.C. § 10603(d)(2) has changed and that provision is now at 34 U.S.C. § 20103(d)(2).

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<p>stalking, including telephonic or web-based hotlines, legal advocacy, economic advocacy, emergency and transitional shelter, accompaniment and advocacy through medical, civil or criminal justice, immigration, and social support systems, crisis intervention, short-term individual and group support services, information and referrals, culturally specific services, population specific services, and other related supportive services.</p>		<p>physical needs of crime victims;</p> <p>(2) Assist victims to stabilize their lives after victimization;</p> <p>(3) Assist victims to understand and participate in the criminal justice system; or</p> <p>(4) Restore a measure of security and safety for the victim. 28 C.F.R. § 94.102.</p>	<p>needs of such victims and their dependents for short- term, transitional, or long-term safety and recovery. Supportive services include, but are not limited to: Direct and/or referral- based advocacy on behalf of victims and their dependents, counseling, case management, employment services, referrals, transportation services, legal advocacy or assistance, child care services, health, behavioral health and preventive health services, culturally and linguistically appropriate services, and other services that assist victims or their dependents in recovering from the effects of the violence. To the extent not already described in this definition, supportive services also include but are not limited to other services identified in FVPSA at 42 U.S.C. 10408(b)(1)(A)-(H). Supportive services may be directly provided by grantees and/or by providing</p>

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			advocacy or referrals to assist victims in accessing such services. 45 C.F.R. § 1370.2.
	<p>(h) The term “victim services division or component of an organization, agency, or government” refers to a division within a larger organization, agency, or government, where the division has as its primary purpose to assist or advocate for domestic violence, dating violence, sexual assault, or stalking victims and has a documented history of work concerning such victims.</p>		

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<p>(b) Grant conditions (b)(2) Nondisclosure of confidential or private information</p> <p>(b)(2)(A) In general In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this subchapter shall protect the confidentiality and privacy of persons receiving services.</p>	<p>Grant conditions (b) Nondisclosure of confidential or private information –</p> <p>(b)(1) In general. In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this subchapter shall protect the confidentiality and privacy of persons receiving services.</p>	<p>(a) Confidentiality. SAAs and sub-recipients of VOCA funds shall, to the extent permitted by law, reasonably protect the confidentiality and privacy of persons receiving services under this program and shall not disclose, reveal, or release, except pursuant to paragraphs (b) and (c) of this section -</p>	<p>Grant conditions (c)(5) Nondisclosure of confidential or private information</p> <p>(c)(5)(A) In general In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under this chapter shall protect the confidentiality and privacy of such victims and their families.</p>
<p>(b)(2)(B) Nondisclosure Subject to subparagraphs (C) and (D), grantees and subgrantees shall not –</p>	<p>(b)(2) Nondisclosure.</p> <p>(i) Subject to subparagraph (b)(3) of this section, grantees and subgrantees shall not –</p>		<p>42 U.S.C. § 10406 (c)(5)(B) Nondisclosure</p> <p>Subject to subparagraphs (C), (D), and (E), grantees and subgrantees shall not –</p>
<p>(b)(2)(B)(i) disclose, reveal, or release any personally identifying information or individual information collected in</p>	<p>(b)(2)(i) [continued] disclose any personally identifying information or individual information collected in connection with services</p>	<p>(a)(1) Any personally identifying information or individual information collected in connection with VOCA-funded</p>	<p>42 U.S.C. § 10406 (c)(5)(B)(i) disclose any personally identifying information collected in connection with services</p>

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connection with services requested, utilized, or denied through grantees' and subgrantees' programs, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected; or	requested, utilized, or denied through grantees' and subgrantees' programs, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected.	services requested, utilized, or denied, regardless of whether such information has been encoded, encrypted, hashed, or otherwise protected; or	requested (including services utilized or denied,), through grantees' and subgrantees' programs;
	(b)(2)(iii) This paragraph also applies to disclosures from the victim services divisions or components of an organization, agency, or government to other non-victim service divisions within an organization, agency, or government. It also applies to disclosures from victim services divisions or components of an organization, agency, or government to the leadership of the organization, agency, or government (e.g. , executive director or chief executive). Such executives shall have access without releases only in extraordinary and rare circumstances. Such circumstances do not include		

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	routine monitoring and supervision.		
<p>(b)(2)(B)(ii) disclose, reveal, or release individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of legal incapacity, a court-appointed guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor.</p>	<p>(b)(3) Release.</p> <p>(b)(3)(i) Personally identifying information or individual information that is collected as described in paragraph (b)(2) of this section may not be released except under the following circumstances:</p> <p>(A) The victim signs a release as provided in paragraph (b)(3)(ii) of this section;</p> <p>(B) Release is compelled by statutory mandate, which includes mandatory child abuse reporting laws; or</p> <p>(C) Release is compelled by court mandate, which includes a legal mandate created by case law, such as a common-law duty to warn.</p>	<p>(a)(2) Individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought,</p>	<p>42 U.S.C. § 10406 (c)(5)(B)(ii) reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal or State³ grant program, which consent –</p> <p>(c)(5)(B)(ii)(I) shall be given by –</p> <p>(c)(5)(B)(ii)(I)(aa) the person, except as provided in item (bb) or (cc);</p>

³ 45 C.F.R. 1370.4(a)(2) includes “Tribal” in this list.

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<p>(b)(2)(B)(ii) [continued] If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent’s or guardian’s consent, the minor or person with a guardian may release information without additional consent.</p>	<p>(b)(3)(ii)(C) Releases must be signed by the victim unless the victim is a minor who lacks the capacity to consent to release or is a legally incapacitated person and has a court-appointed guardian. Except as provided in paragraph (b)(3)(ii)(D) of this section, in the case of an unemancipated minor, the release must be signed by the minor and a parent or guardian; in the case of a legally incapacitated person, it must be signed by a legally- appointed guardian. Consent may not be given by the abuser of the minor or incapacitated person or the abuser of the other parent of the minor. If a minor is incapable of knowingly consenting, the parent or guardian may provide consent. If a parent or guardian consents for a minor, the grantee or subgrantee should attempt to notify the minor as appropriate.</p> <p>(b)(3)(ii)(D) If the minor or person</p>	<p>(a)(2) [continued] except that consent for release may not be given by the abuser of a minor, incapacitated person, or the abuser of the other parent of the minor. If a minor or person with a legally appointed guardian is permitted by law to receive services without a parent’s (or the guardian’s) consent, the minor or person with a guardian may consent to release of information without additional consent form the parent or guardian.</p>	<p>42 U.S.C. § 10406 (c)(5)(B)(ii)(I) (bb) in the case of an unemancipated minor, the minor and the minor’s parent or guardian; or</p> <p>(c)(5)(B)(ii)(I)(cc) in the case of an individual with a guardian, the individual’s guardian; and</p> <p>(c)(5)(B)(ii)(II) may not be given by the abuser or suspected abuser of the minor or individual with a guardian, or the abuser or suspected abuser of the other parent of the minor.</p> <p>45 C.F.R. § 1370.4(b) If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent’s or guardians’ consent, the minor or person with a guardian may release information without additional consent. Reasonable accommodations shall also be made for those who may</p>

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	with a legally appointed guardian is permitted by law to receive services without the parent’s or guardian’s consent, the minor or person with a guardian may consent to release information without additional consent.		be unable, due to disability or other functional limitation, to provide consent in writing.
	<p>(b)(3)(ii) Victim releases must meet the following criteria –</p> <p>(A) Releases must be written, informed, and reasonably time-limited. Grantees and subgrantees may not use a blanket release and must specify the scope and limited circumstances of any disclosure. At a minimum, grantees and subgrantees must: Discuss with the victim why the information might be shared, who would have access to the information, and what information could be shared under the release; reach agreement with the victim about what information would be shared and with whom; and</p>		

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	record the agreement about the scope of the release. A release must specify the duration for which information may be shared. The reasonableness of this time period will depend on the specific situation.		
			45 C.F.R. §1370.4 (d)(4) Personally identifying information may be shared with a health care provider or payer, but only with the informed, written, reasonably time-limited consent of the person about whom such information is sought.
(b)(2)(C) Release If release of information described in subparagraph (B) is compelled by statutory or court mandate –	(b)(3)(iii) If the release is compelled by statutory or court mandate,	(b) Release If release of information described in subparagraph (a)(2) of this section is compelled by statutory or court mandate,	42 U.S.C. § 10406 (c)(5)(C) Release If release of information described in subparagraph (B) is compelled by statutory or court mandate—
(b)(2)(C)(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and	(b)(3)(iii) [continued] grantees and subgrantees must make reasonable efforts to notify victims affected by the disclosure and	(b) [continued] SAAs or subrecipients of VOCA funds shall make reasonable attempts to provide notice to victims affected by the disclosure of the	42 U.S.C. § 10406 (c)(5)(C)(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the release of the information;

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		information, and	and
(b)(2)(C)(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.	(b)(3)(iii) [continued] take steps necessary to protect the privacy and safety of the affected persons.	(b) [continued] take reasonable steps necessary to protect the privacy and safety of the persons affected by the release of the information.	42 U.S.C. § 10406 (c)(5)(C)(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.
(b)(2)(D) Information sharing (i) Grantees and subgrantees may share –		(c) Information sharing. SAAs and sub-recipients may share	42 U.S.C. § 10406 (c)(5)(D) Information sharing Grantees and subgrantees may share –
(b)(2)(D)(i)(I) non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with Federal, State, tribe, or territorial reporting, evaluation, or data collection requirements;		(c)(1) Non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with reporting, evaluation, or data collection requirements;	42 U.S.C. § 10406 (c)(5)(D)(i) non-personally identifying information, in the aggregate, regarding services to their clients and demographic non-personally identifying information in order to comply with Federal, State, or tribal reporting, evaluation, or data collection requirements;
(b)(2)(D)(i)(II) court-generated information and law enforcement-generated information contained in secure, governmental registries for protection order enforcement		(c)(2) Court-generated information and law enforcement-generated information contained in secure governmental registries for protection order enforcement	42 U.S.C. § 10406 (c)(5)(D)(ii) court-generated information and law enforcement-generated information contained in secure,

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purposes; and		purposes; and	governmental registries for protective order enforcement purposes; and
(b)(2)(D)(i)(III) law enforcement-generated and prosecution-generated information necessary for law enforcement and prosecution purposes.		(c)(3) Law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.	42 U.S.C. § 10406 (c)(5)(D)(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.
(b)(2)(D)(ii) In no circumstances may –		(d) Personally identifying information. In no circumstances may -	
(b)(2)(D)(ii)(I) an adult, youth, or child victim of domestic violence, dating violence, sexual assault, or stalking be required to provide a consent to release his or her personally identifying information as a condition of eligibility for the services provided by the grantee or subgrantee;	(b)(3)(ii)(B) Grantees and subgrantees may not require consent to release of information as a condition of service.	(d)(1) A crime victim be required to provide a consent to release personally identifying information as a condition of eligibility for VOCA-funded services.	45 C.F.R. § 1370.4 (a)(3) [grantees and subgrantees shall not] [r]equire an adult, youth, or child victim of family violence, domestic violence, and dating violence to provide a consent to release his or her personally identifying information as a condition of eligibility for the services provided by the grantee or subgrantee.
(b)(2)(D)(ii)(II) any personally identifying information be shared in order to comply with Federal, tribal, or State reporting, evaluation, or data collection	(b)(2)(ii) This paragraph applies whether the information is being requested for a Department of Justice grant program or another Federal agency, State, tribal, or	(d)(2) Any personally identifying information be shared in order to comply with reporting, evaluation, or data collection requirements of any program.	

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requirements, whether for this program or any other Federal, tribal, or State grant program.	territorial grant program. This paragraph also limits disclosures by subgrantees to grantees, including disclosures to Statewide or regional databases.		
<p>(b)(2)(E) Statutorily mandated reports of abuse or neglect Nothing in this section prohibits a grantee or subgrantee from reporting suspected abuse or neglect, as those terms are defined and specifically mandated by the State or tribe involved.</p>	<p>(b)(3)(i)(B) [statutory mandate] includes mandatory child abuse reporting laws[.]</p>	<p>(e) Mandatory reporting. Nothing in this section prohibits compliance with legally mandated reporting of abuse or neglect.</p>	<p>42 U.S.C. § 10406 (c)(5)(F) Statutorily permitted reports of abuse or neglect Nothing in this paragraph shall prohibit a grantee or subgrantee from reporting abuse and neglect, as those terms are defined by law, where mandated or expressly permitted by the State or Indian tribe involved.</p> <p>45 C.F.R. § 1370.4 (e) adds: "... or from reporting imminent risk of serious bodily injury or death of the victim or another person."</p>
	<p>(b)(5) Inadvertent release. Grantees and subgrantees are responsible for taking reasonable efforts to prevent inadvertent releases of personally identifying information or individual</p>		

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	information that is collected as described in paragraph (b)(2) of this section.		
			<p>42 U.S.C. § 10406 (c)(5)(G) Preemption</p> <p>Nothing in this paragraph shall be construed to supersede any provision of any Federal, State, tribal, or local law that provides greater protection than this paragraph for victims of family violence, domestic violence, or dating violence.</p>
			<p>42 U.S.C. § 10406 (c)(5)(H) Confidentiality of location</p> <p>The address or location of any shelter facility assisted under this chapter that otherwise maintains a confidential location shall, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.</p> <p>45 C.F.R. § 1370.4(g) adds:</p> <p>(1) Shelters which choose to</p>

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			<p>remain confidential pursuant to this rule must develop and maintain systems and protocols to remain secure, which must include policies to respond to disruptive or dangerous contact from abusers, and</p> <p>(2) Tribal governments, while exercising due diligence to comply with statutory provisions and this rule, may determine how best to maintain the safety and confidentiality of shelter locations.</p>