

# Philosophy of Confidentiality

*The mission of the Pennsylvania Coalition Against Rape is to work to eliminate all forms of sexual violence and to advocate for the rights and needs of victims of sexual assault.* 🌈

**Position:** The Pennsylvania Coalition Against Rape believes in protecting the integrity of the counseling relationship between the sexual assault counselor and the sexual violence victim. The privilege between client and counselor must be absolute, except in those circumstances mandated by law.

## Rationale:

All counseling communications must originate in confidence. The sexual violence victim or guardian of the victim maintains the absolute right to decide whether confidential communications should be disclosed. Confidentiality must be maintained and protected at all times in all settings regardless of the consequences.

Centers must have clear guidelines and procedures for governing the content of and access to confidential communications, release of information, handling subpoenas and the training and supervision of staff and volunteers. Victims must be able to provide informed consent based on thorough and accurate information provided by the counselor regarding the advantages and disadvantages of disclosing confidential communications. In no case should a victim feel pressured into giving consent.

The victim must have absolute confidence and trust in the counselor to develop an effective counseling relationship. Without the assurance that all information will remain confidential, the victim will likely be reluctant or unwilling to fully disclose her or his innermost feelings regarding the sexual victimization. Victims may simply choose not to pursue counseling, therefore, severely hindering or ending the healing process. The sexual assault counselor has the responsibility to respect and protect the integrity of the counseling relationship at all times.

The basis of the empowerment-counseling model is the belief that the victim regains control over all aspects of her or his life as soon as possible after the sexual victimization. Therefore, the sexual violence victim or the guardian of the victim maintains absolute control regarding the release of confidential information.



## Background:

Executive Director of the Pittsburgh Action Against Rape (PAAR), Ann Pride, refused to produce records to the court during a rape trial in 1980 because communication between a rape crisis counselor and a victim is privileged.

The court found Pride in contempt and remanded to jail until she could comply with the court's order; however, the PA Supreme Court issued a stay of the order. PAAR subsequently appealed and in January 1981, the Supreme Court ruled that there was no statutory privileged communication for rape crisis counselors. It was a landmark case across the country.

In December of 1981, a statute affording absolute confidentiality to rape crisis counselor records (42 Pa. C.S.A. § 5945.1) became law in Pennsylvania. It was the first absolute confidentiality law in the nation. In 1992, the confidentiality law was unsuccessfully challenged in two consolidated cases, *Commonwealth v. Wilson/Aultman* (529 PA. 268; 602 A 2d. 1290 (1992)), with the PA Supreme Court ruling in favor of the centers and also ruling that the confidentiality statute was constitutional under both the U.S. and the PA constitutions.

The Pennsylvania Coalition Against Rape may issue statements regarding public policy affecting sexual violence victims and rape crisis centers. All position statements adopted by the Pennsylvania Coalition Against Rape will be viewed as the official position statement, the center, when publicly or privately voicing opposition to the statement, will do so in the capacity of an independent program and in no way as a member of the Pennsylvania Coalition Against Rape.



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