

# Understanding Confidentiality

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Confidentiality is an important part of fostering an environment where Survivors and Those Impacted by Sexualized Violence feel safe disclosing and seeking support. This fact sheet has been created to help you understand privacy and confidentiality rights and limitations if you disclose or report Sexualized Violence. If you have any questions, please contact the **Sexualized Violence Resource office (“SVRO”)** in the Equity and Human Rights Office (“EQHR”). Contact information is available at the end of this fact sheet.

## Confidentiality and Disclosure

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Survivors and Those Impacted by Sexualized Violence may disclose their experiences to any member of the University Community in confidence. A Disclosure is not a Report and will not initiate an investigation.

Members of the University Community who receive a Disclosure should obtain consent from the Survivor before sharing any information. In general, there is no obligation to report a Disclosure to the University. However, in some cases, **individuals who receive a Disclosure may be required to share information related to the Disclosure** or take some action to respond.

For example, limits to confidentiality may arise when the Disclosure reveals the following:

- a person is at risk of self-harm or of harming others;
- there is an imminent risk of harm to the University or broader community;
- sexual harassment in the workplace;
- a person under the age of 19 is endangered; or
- is otherwise required by law.

In these instances, the minimum amount of information needed to meet legal or other obligations should be shared with others, and reasonable efforts should be made to involve the Survivor in the decision to share information. Any member of the University Community who is unsure about their responsibility in sharing information should seek advice from the SVRO.

Every effort should be made to inform members of the University Community of the potential limits to confidentiality.

## Confidentiality and Reporting

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When a Survivor or person Impacted by Sexualized Violence decides to make a Report, they are asking the University to carry out an investigation against a named Respondent. In making a decision to proceed with a Report, it is therefore important to understand what can remain confidential and what information may need to be shared, and with whom, during the investigation process.

### ***What information will be shared and with whom?***

Survivors have the right to be informed about what personal information is being shared and with whom at all stages of the process.

If after receiving a Report, the University proceeds with an Investigation, the identity of the Survivor/ Complainant, the Person Alleged to Have Caused Harm (Respondent), Witnesses and information about the allegations, may be shared with the following individuals and/or offices:

- Equity and Human Rights
- Investigator
- Campus Security
- Office of Student Life
- Human Resources
- Administrative Authority

## Other Information

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Individuals who receive a Disclosure of Sexualized Violence, as well as those involved in addressing or investigating incidents must:

- make every reasonable effort to protect personal information and maintain confidentiality;
- collect the minimum information necessary to respond; and

- limit the sharing of information to those who “need to know” in order to perform their duties.

Deciding whether to break someone’s confidentiality is not an easy choice and not one that should be undertaken without a clear understanding of the rights of the person disclosing. Breaching the confidentiality of the persons named in a Disclosure and/or Report may be considered retaliation under the Policy and may result in a sanction. If you are **unsure about your obligations and responsibilities, seek advice.**

Disclosures or Reports can occur immediately after the incident or several months or years later. There is no time limit, although the University’s ability to respond may change over time.

Survivors and Those Impacted by Sexualized Violence who are considering making a Report should be aware that their identity and the details of the allegations will be shared with the Person Alleged to Have Caused Harm/Respondent. This is because Respondents have a procedural right to know the allegations against them.

Survivors have the right to know the outcome of an investigation, but not the details of any discipline or which sanctions were imposed upon the Respondent, unless those restrictions directly affect their health and/or safety.

Respondents also have the right to have their personal information kept confidential unless a limit to confidentiality applies.

Information collected during an investigation may also be disclosed in a criminal or civil proceeding (this falls under one of the limits to confidentiality – i.e. required by law).

## Public Statements

Survivors and Those Impacted by Sexualized Violence are free to tell the story of their own experiences.

Choosing to make public statements may compromise the process or the investigation, or put individuals at risk of civil lawsuits by those who believe they have been defamed or have had their privacy rights violated. Individuals should exercise

care and judgment when deciding to share information or make public statements (including on social or other electronic media) and should seek legal or other advice if unsure.

Any public statements made by the University will be Trauma-informed, Survivor-centred and will not disclose the personal information of a Survivor/ Complainant, or the Person Who Has Caused Harm/Respondent, without the consent of those individuals.

University Community members must not disclose information that they learn solely as a result of an investigation or reporting process. This is confidential information.

### Unsure? Seek Advice

The **SVRO** can assist Survivors and Those Impacted by Sexualized Violence, as well as any member of the University Community.

If you have questions or concerns about the Policy, including questions about your rights and options under the Policy, or if you wish to make a Disclosure and/or Report, please call the SVRO line: 250-721-8021

For more information, including access to an electronic copy of the Policy, visit: <http://www.uvic.ca/equity/>

*This information sheet is intended for general information purposes only. It is not intended to replace the Policy or provide or replace legal advice.*