

Before You Sign on the Dotted Line...

Your medical and mental health records may include a lot of information that you want to keep private. **You have a right to privacy as a victim.** You have the option to choose whether or not to sign a form that lets others view your records, this is known as an “express waiver.” There may be pieces of information in your records that help prosecutors (the attorneys who decide if they can press charges against your perpetrator) and detectives compile information during the investigation. Because of this, you may want to release medical or mental health information as it could help your case.



Sometimes, law enforcement or medical personnel will ask you to sign forms and it can be complicated to know what the forms are for and what might happen with your information. It's important to take time and think about what you want now as well as the long-term needs around your privacy – it's a lot to think about all at once!

Before you sign anything, know that **you get to choose!** You can choose to have some, all, or none of your information shared with these individuals. **It is important to know exactly what you are signing and who will be able to access your personal information as it may be used later by a defense team in ways that you cannot anticipate when signing the dotted line.** Just know, you are not alone in making these decisions – there are many people who can support you with this decision.

Generally, there are two kinds of waivers:

1. **General Waivers:** are usually broad and may open the door for all of the information in your records to be shared. This is usually not what survivors want as it may include information that is not related to your case and things you want to keep private.
2. **Limited Waivers:** allow for you to release some of the information in your file that is critical to the investigation and protects other information that you don't want to share. Limited waivers allow for the protection of your confidentiality and prior medical records that are not related to the current case.

When signing a waiver, here are some important things to consider:

- **WHO** – You should be specific about who is allowed to look at your information. For example, you might say “El Paso County Law Enforcement” rather than “Law Enforcement” or “Investigator.” Another example is, “Summit County District Attorney's Office” rather than “DA's” or “Attorney.”

- **WHAT** – Be specific with exactly what information is allowed to be disclosed and what is not allowed. For example, you might say, “only medical information related directly to the sexual assault and not any of my prior medical history.”
- **WHERE** – Identify what service provider is allowed to disclose the information. Every service provider should have their own waiver. This might feel like a hassle to do a form for each individual provider; however, you will be grateful in the long run!
- **WHEN** – Dates are important! Include the date(s) of the treatment records you are releasing and an expiration date for the waiver. Make the expiration date no further out than 60 days from when you sign it. This may mean you have to do multiple waivers over the course of the investigation and criminal justice process, but it is one way to safeguard your information.
- **WHY** – Again, be specific about the purpose of the waiver. For example, “This release is for Eagle County Victim Compensation to verify my treatment status” or “for Mesa County District Attorney’s Office to access this information for trial preparation.” If you are uncertain about the purpose, ask the person who is requesting you to release the information why they want it.
- **HOW** – You get to state your intention here! With this you can say what you are and are not doing. For example, “This waiver is NOT intended to waive my confidentiality in all of my past medical records. The documents listed above may not be released until any prior medical history contained therein is redacted.”

Making choices regarding the legal issues around your privacy can be very complicated – even for the professionals! If you need more information or want support in making a decision that is right for you, contact Rocky Mountain Victim Law Center, www.rmvictimlaw.org, 303.295.2001. All of our services are free and confidential to you.



*Created by the Rocky Mountain Victim Law Center
in collaboration with the
Colorado Coalition Against Sexual Assault*