

Standard 4: Privacy and Confidentiality

4.01 Maintaining Confidentiality

Psychologists have a primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium, recognizing that the extent and limits of confidentiality may be regulated by law or established by institutional rules or professional or scientific relationship. (See also Standard [2.05, Delegation of Work to Others](#).)

4.02 Discussing the Limits of Confidentiality

(a) Psychologists discuss with persons (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal representatives) and organizations with whom they establish a scientific or professional relationship (1) the relevant limits of confidentiality and (2) the foreseeable uses of the information generated through their psychological activities. (See also Standard [3.10, Informed Consent](#).)

(b) Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.

(c) Psychologists who offer services, products, or information via electronic transmission inform clients/patients of the risks to privacy and limits of confidentiality.

4.03 Recording

Before recording the voices or images of individuals to whom they provide services, psychologists obtain permission from all such persons or their legal representatives. (See also Standards [8.03, Informed Consent for Recording Voices and Images in Research](#); [8.05, Dispensing with Informed Consent for Research](#); and [8.07, Deception in Research](#).)

4.04 Minimizing Intrusions on Privacy

(a) Psychologists include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

(b) Psychologists discuss confidential information obtained in their work only for appropriate scientific or professional purposes and only with persons clearly concerned with such matters.

4.05 Disclosures

(a) Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient or another legally authorized person on behalf of the client/patient unless prohibited by law.

(b) Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide needed professional services; (2) obtain appropriate professional consultations; (3) protect the client/patient, psychologist, or others from harm; or (4) obtain payment for services from a client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose. (See also Standard [6.04e, Fees and Financial Arrangements](#).)

4.06 Consultations

When consulting with colleagues, (1) psychologists do not disclose confidential information that reasonably could lead to the identification of a client/patient, research participant or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided, and (2) they disclose information only to the

extent necessary to achieve the purposes of the consultation. (See also Standard [4.01, Maintaining Confidentiality](#).)

COMMENTARY

Standard 4: Privacy and Confidentiality

4.01 Maintaining Confidentiality: In small communities this is difficult to manage due to the closeness of community. Even the location of the office can give away who is seeing the psychologist. Because of this, every effort must be used to safeguard confidentiality.

4.01: Even in urban settings, there may be a very small number of Native people from any particular tribe. When professionals are discussing the case of a person from “X” tribe, this can immediately identify that particular person to everyone else in the room, even though the name of the person has not been used. I know about a case in which this happened in a large city. All the tribal people who heard about that consultation immediately knew whom it was about. Psychologists should keep in mind that tribal affiliation can be just as specific an identifier as a person’s name.

Story

A Native student does not want to use Native American Student Services on campus because their relative is working there. Native faculty, staff, or counselors might also be related to the student.

Story

A psychologist comes to a small Native reservation at which there was a great need for therapy among members of the tribe. On a visit to the local high school, the psychologist spoke with a 16 year old female student who told her she was having problems with her own sexual identity. She told the psychologist that for a few years, she had felt romantic feelings for another young woman on the reservation. She believed that she may be a lesbian but feared that her family, friends, and the entire reservation community might disown her if they were to find out.

The psychologist advised her on how to deal with her feelings and urged her to not be ashamed of who she was as a person. The girl asked the psychologist to not tell anyone about the feelings she had been having. The psychologist assured her that all the information she disclosed would be held in confidence.

A week later, the psychologist held a group therapy session at the young woman’s high school. During this session, the therapist mentioned a therapy session she had recently had with a young woman who was having homosexual feelings. Even though she did not mention the girl’s name, she released enough information for everyone in the group to be able to identify that young woman. Because of this, the young woman was outed to her fellow classmates and to the entire community.

Story

In a small town reservation, it is very difficult to keep certain things private. Everyone knows everyone and only takes a few days for privacy to be completely broken. Thirteen years ago, I had my confidentiality broken by personnel at a hospital. At that time, I was very young and dumb, had unprotected sex, and later was worried about having caught an STD. Luckily for me, I hadn't. But the point is, that I went in for an STD test and knew quite a few people at this hospital. Within days, I was starting to be asked by people, "how did the test go?" After being asked so many times, I made a complaint to the head of this hospital. Nothing was done. Since then I've never used my own hospital but pay for services in other towns.

Story

In urban Indian communities, everyone knows everyone else. Confidentiality, including the scheduling of appointments, has to be handled very carefully. I have had to be flexible in where I'd meet clients at times, owing to their prominence in the community, or because their first cousin is the receptionist at the center and a known community gossip. Being involved in the community, I have had situations in which I have friends within the community who were friends with my clients. This presented some challenging situations, when my clients told our mutual friends that I was their therapist. I had to develop a specific way (a standard phrase) to respond to that in order to uphold the confidentiality.

Story

During internship, I was in supervision talking about a client, a young Native woman, whose mother had recently passed. My supervisor requested the client's last name and then picked up the phone book in the rural area to find the client's father's listing. The supervisor commented to me that there were not many single men in the community of her age to date. As an intern, I didn't know what to do with this information or how to protect myself from the supervisor's power to write letters and evaluate me.

4.02 Discussing the Limits of Confidentiality: It is important to discuss the limits of confidentiality in the simplest language possible. It is most important to make sure people understand the rules and not just assume that they know them because you read them the list or they signed the paper.

Story

In some prisons, all the inmates who have a mental health diagnosis are housed in one or two buildings. When they are seen going to their cell, other inmates and as well as staff say, "You are one of the crazies." They are outted by where they live.

4.03 Recordings: Many American Indian people do not want their picture taken or replicas of their voices. In some communities, this is considered culturally taboo, inappropriate, or invasive. Therefore recordings may not be acceptable at all.

Story

I went to an EAP psychologist to discuss work problems. As I waited in the waiting room, the psychologist played his voice mail in speaker-phone mode. The door was open and I heard every call. As a psychologist myself, I thought, "I will never leave a message on his voicemail." He was oblivious to the fact that his clients' recordings were not being held confidential or private.

4.04 Intrusions on Privacy - In some cultures it is taboo to talk about family issues. Insisting that the client disclose such information can put the client in a delicate or conflicting situation due to loyalty to his or her culture or family. If these questions cannot be avoided, it is important to clarify to the client that the psychologist is required to ask many questions but that the client has the right to answer or not, according to the client's readiness to disclose.

4.04: In some cultures, it's not acceptable to talk about death and dying or a relative's passing.

4.04: Some cultures are more reserved with their personal information, pictures, and life events. For some cultures, sharing that information could be part of daily life, but for other cultures sharing similar information would be considered sacred and indicative of a special bond.

4.05 Disclosures: It is important to clarify to the client that the disclosure is to the therapist and at the same time to the organization. Sometimes a bond of trust is built with the current therapist and the client forgets that the disclosure is to the organization.

Story

I have a better and stronger relationship if I can disclose who I am and where I am from. But this might take time and I have to know the information is going to be treated right.

4.07 Use of Confidential Information: Due to the scarce numbers of Indigenous people in our organizations, we may need to go to greater lengths for confidentiality. For example, my area of research is with Native American graduate students, so I may need to be creative in order to keep confidentiality because it would be easier to match the confidential information of such unique clients with known individuals.