



Building dental workforce capability to recognise and respond to domestic and sexual violence; a collaborative initiative between Social Work & Dentistry.

Educational Resource:
'Ethical and Legal Considerations'

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IMPORTANT INFORMATION TO CONSIDER

This print resource reflects the inter-disciplinary perspectives from Dentistry and Social Work at James Cook University. It is to be used in conjunction with the suite of video scenarios designed to train people in the dental profession on how to recognise, respond, and refer patients who are victim-survivors of domestic and sexual violence (DSV).

The term 'domestic and sexual violence' (DSV) is used predominately in this resource. In relation to working with First Nations people in Australia, the term 'domestic and family violence' (DFV) is used to reflect the nature of this experience within First Nations communities.^{1,2} It is acknowledged that domestic violence can be perpetrated without involving the use of sexual violence, and sexual violence does occur outside of an intimate partner setting and without involving domestic violence.³

The term 'victim-survivor' of DSV is predominately used in this resource. The term 'victim' denotes DSV is a crime. The term 'survivor' denotes people's strength and resilience. At times, this document uses the term 'people who have / are experiencing DSV' or 'people who have / are experiencing trauma' dependent on the context. These terms assist the victim-survivor, and other people, to recognise that the violent behaviour is not attributable to themselves or the relationship, but is attributable to the person perpetrating the violent behaviour. However, mirroring the language people use to describe themselves in relation to their experience of DSV is encouraged.^{4,5}

The information included in this print resource is correct at the time of publication: 15/07/24. As best practice in the area of DSV continues to develop, educators and students have a responsibility to keep current with related changes to national and state / territory legislation, policies and guidelines, which need to be implemented within their organisations and dental practice.

CONTENT INCLUDED IN THIS DOCUMENT

This print resource is to be read in conjunction with the corresponding video scenario. The following information is included in this print resource:

- Overarching Aim
- Linkage With The Australian Dental Council
- Self-Care Information
- Key Skills And Content Delivered In Each Educational Resource
- Summary And Objectives Of "Ethical And Legal Considerations"
- Concepts Relevant To The Role Of The Dentist
- Discussing Content From The Video
- Managing Risk And Your Own Responses To Knowing About DSV
- Other Themes Explored In The Video
- Example Scripts
- Critical Reflection
- Relevant Resources
- Recommendation To Map Your Relevant Local Services
- Final Message
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Overarching Aim

To collaboratively train dental students on how to recognise, respond, and refer patients who are victim-survivors of domestic and sexual violence (DSV).

Linkage with the Australian Dental Council

Professional Competencies of the Newly Qualified Dental Practitioner (2023), Competency 2.4: "recognise, assess, and respond to domestic and family violence risk, prioritise safety, provide information, and refer as required".⁶

Self-Care Information

Points to Consider

- Self-care refers to activities to take care of our mental, emotional, and physiological well-being.
- When working with people who have / are experiencing DSV, be attentive to signs of vicarious trauma.
- Concepts related to vicarious trauma include stress, secondary traumatic stress, compassion fatigue, empathetic distress, and burnout.
- See the resources below for detailed information on the indicators of vicarious trauma and associated concepts.
- Ensure your workplace is enacting strategies to mitigate negative impacts of your work in general, and specifically in relation to vicarious trauma.

Relevant Resources

There are many excellent resources on self-care and worker well-being available online or through specific worker training. Here are a few places you can start building your knowledge and skill set in relation to self-care, and mitigating vicarious trauma:

- 1800RESPECT (1800 737 732):
 - [Wellbeing and self-care](#)⁷
 - [Work-induced stress and vicarious trauma](#)⁸
 - [Vicarious trauma: Looking after yourself at work](#)⁹
- [Dental Practitioner Support](#): An anonymous national health and wellbeing support service for dental practitioners¹⁰
- For dental students: contact with your university's student well-being service
- For dentists employed in an organisation: contact the 'employee assistance program' connected with your organisation.
- For dentists in private practice: contact the 'Dental Practitioner Support' service listed previously.
- [CRANA plus](#): has a 24 hour 'Bush' hotline in addition to online resources:
 - [Mental health and well-being resources](#), with a focus on working in rural and remote locations.¹¹
 - [Supporting yourself after a traumatic event](#)¹¹
- [Burnout and self-care in dentistry](#): an article by Dr Kaejenn Tchia¹²

Key Skills And Content Delivered In Each Educational Resource

Educational Resource	Key Skills And Content Included In Each Educational Resource (Video And Print Resource)
The Basics	<ul style="list-style-type: none"> ▪ Foundational content on domestic and sexual violence (DSV) (recognise) ▪ 'Screening' and 'opening the conversation' regarding DSV (respond) ▪ Referring to a specialist DSV service (refer)
The Full Skill Set	<ul style="list-style-type: none"> ▪ Builds on the recognise, respond, and refer content delivered in 'The basics' ▪ Content on working from a trauma-informed approach ▪ Content on legal, ethical, professional, and organisational requirements in relation to documentation of patients' experiences of DSV
Trauma-informed	<ul style="list-style-type: none"> ▪ Builds on the trauma-informed content delivered in 'The full skill set' ▪ Content on building rapport and trust with the patient, confidentiality, history taking and screening for domestic violence, identifying triggers and engaging with patients to safely navigate triggers and to best support them in the clinic
Ethical and Legal Considerations	<ul style="list-style-type: none"> ▪ Builds on legal, ethical, professional, and organisational requirements in relation to documentation of patients' experiences of DSV delivered in 'The full skill set' ▪ Content on informed consent, mandatory reporting, and unintended consequences
Working with First Nations Australians	<ul style="list-style-type: none"> ▪ Content delivered by a First Nations Australian specialist domestic and family violence service ▪ Content on the ongoing impacts of colonisation, inter-generational trauma, and systemic racism and how these contribute to the current rates of domestic and family violence within First Nations communities ▪ Content to promote cultural sensitivity and humility
Considering Unintended Consequences	<ul style="list-style-type: none"> ▪ Builds on unintended consequences content delivered in 'Ethical and legal considerations' ▪ Content on coercive control as a form of DSV ▪ Content on considerations when working with a patient who is a victim-survivor of DSV when the person believed to be perpetrating harm is present at the appointment

Scaffolded material

Summary And Objectives Of 'Ethical And Legal Considerations'

Summary of the Scenario

This scenario demonstrates the dentist taking into account legal and ethical considerations for a victim-survivor of domestic and sexual violence. Four different possible endings to the dentist-patient interaction are shown.

Objectives of the Scenario

- Demonstrate skills in discussing the concept of 'informed consent' patient who is a victim-survivor of domestic and sexual violence.
- Demonstrate knowledge of documentation regarding DSV; considering legal, ethical, professional and organisational requirements.
- Demonstrate an understanding of how ethical, legal, professional, and organisational documentation requirements may be in tension with the patient's right to request that noting their disclosure of DSV be limited or omitted from their dental record.
- Demonstrate developing understanding of the concept of 'unintended consequences' in relation to domestic and sexual violence, specifically in relation to mandatory reporting or reporting without the patient's consent.

Concepts Relevant To The Role Of The Dentist

The following concepts are separate, yet inter-related, and need to be considered in relation to the patient's situation, organisational policy, and legislative requirements.

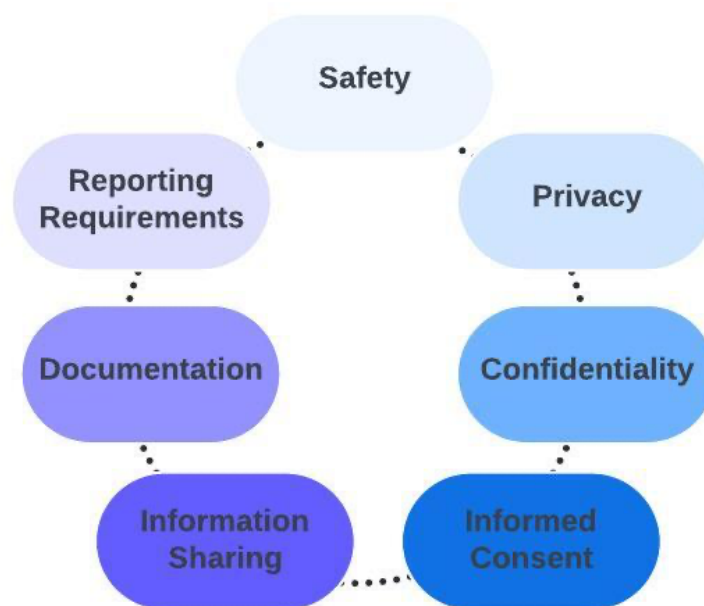
Please read the Dental Board of Australia (DBA) and the Australian Dental Association (ADA) documentation listed below which covers concepts included in this educational resource:

Dental Board of Australia AHPRA. Good record keeping: A self-reflective tool to support record keeping by dental practitioners. Sept. 2020. Available: <https://www.dentalboard.gov.au/Codes-Guidelines/dental-records.aspx>¹⁴

Dental Board of Australia AHPRA. Fact sheet: Maintaining your patient health records Sept 2022. Also available at: <https://www.dentalboard.gov.au/Codes-Guidelines/Dental-records.aspx>¹⁵

The above tools build on the overall DBA Guidelines on Dental Records available at: <file:///C:/Users/art-fac1/Downloads/Dental---Guidelines-on-Dental-Records-1.PDF>¹⁶

Although the Dental Board of Australia (DBA) and the Australian Health Practitioner Regulation Agency (AHPRA) provide guidelines on the requirements for dental records, historically dentists have not tended to include non-dental specific notes on DSV in their documentation. We encourage each dentist to consider inclusion of such information in the patient's record. Given the evolving nature of this space, individual private practitioners will have to make decisions about record keeping guided by their ethical practice and within the legal obligations of the jurisdiction in which they work. From a trauma informed and empowerment perspective we encourage dentists to be clear about their approach and to include within the informed consent script what their approach is to note taking is so that patients know this before disclosing such content.



Safety: An overarching consideration is the patient's right to receive high quality care within a supportive environment that prioritises their safety. This is recognised in both the Australian Charter of Healthcare Rights¹³ and the ADA Policy Statement 2.12 - Abuse and Violence Victims and Dentistry.¹⁴

Privacy: Australian privacy law has strict rules about how a health service provider can collect, use and disclose a patient's health information.^{13,17} An example of privacy is ensuring patient files are not open on your computer or in your workspace where another patient could view them (Privacy, 2023)

Confidentiality: Confidentiality: relates to the legal requirement to not disclose information to a third party. The Australian Dental Association provides guidance on privacy and confidentiality.¹⁸

Note: There are general 'limits of confidentiality' where you may be required by law to disclose information to a third party without the patient's consent. Broadly speaking, these limits of confidentiality relate to:

- *Current child abuse.*
- *Childhood sexual abuse.*
- *If the patient is in immediate and/or significant risk of harm to themselves, specifically at risk of suicide.*
- *If the patient is in immediate and/or significant risk of harming another person.*
- *If the patient is in immediate and/or significant risk of being harmed by another person.*

Due to the changing and contextual nature of this topic, links to specific national and state / territory legislation have not been included. However, you are encouraged to find relevant national and state/territory legislation to ensure you are meeting your legal requirements.

Informed consent: in the context of working with people who have / are experiencing DSV, relates to you as the worker receiving consent from the patient to pass on their information to a third party such as the domestic violence service, or the local police service. From the video

Note: This definition is in contrast from the dentistry definition of this term as it relates to procedures and payment. In your practice as a dentist, you may need to use this term in both contexts with victim-survivors of DSV.

If you are required by law to disclose patient information to a third party, this may need to be undertaken without their consent. However, for transparency, and to uphold the principle of informed consent, if you deem it is safe to do so - you may advise the patient that their information has been disclosed to a third party, and why you have undertaken this step. Advising the patient may take place during the process of disclosing their information to a third party so the patient can take action to make themselves as safe as possible, or it may occur after the disclosure.

Information-sharing: relates to the provision of a patient's information to a third party, with their informed consent. Information-sharing occurs:

- with staff employed in your dental practice; however, it is advisable that information is shared only with staff who 'need to know' the patient's information.
- to someone outside of the dental practice, such as another health practitioner the patient is undertaking care from.

Note: the concept of information-sharing is differentiated from mandatory reporting, and disclosing information under the 'limits of confidentiality'

Documentation: in addition to your general documentation,^{15,16,19} inclusion of disclosures or your observations of 'indicators' and/or 'red flags' of DSV need to be considered. Consideration of a secure location for hard-copy or online files is essential. As is, ensuring that records are only accessible by necessary staff, rather than all staff members having access to patient records.

Reporting Requirements: State/territory legislation sets out which professions are 'mandatory reporters' for specific issues. Due to the changing and contextual nature of this topic, links to specific national and state / territory legislation have not been included in this print resource.

It is essential that you have a working knowledge of relevant national and state/territory legislation in relation to your legal requirements regarding DSV; specifically mandatory reporting. Broadly speaking, reporting to a third party may be undertaken as a mandatory report:

- **with** the patient's consent; OR
- **without** the patient's consent.

As stated previously, in this situation, for transparency, and to uphold the principle of informed consent, if you deem it is safe to do so - you may advise the patient that their information has been disclosed to a third party, and why you have undertaken this step. Advising the patient may take place during the process of disclosing their information to a third party so the patient can take action to make themselves as safe as possible, or it may occur after the disclosure.

Discussing Content From The Video

The video shows **four different endings** following screening for DSV:

Ending 1	The patient refuses a referral in a mandatory reporting jurisdiction
Ending 2	The patient openly discloses the DSV and accepts a referral to a DSV service
Ending 3	The dentist respects the patient's right to refuse a referral in a non-mandatory reporting jurisdiction, with no immediate concerns for the patient's safety & well-being
Ending 4	The patient refuses a referral in a non-mandatory reporting jurisdiction, with concerns for the patient's immediate safety & well-being



What do you understand about the difference between mandatory reporting and non-mandatory reporting as a dentist in your local jurisdiction?

What is the over-lap and difference between child abuse, and children being in a family where there is domestic and sexual violence being perpetrated?

Below are suggested scripts about risk assessment, confidentiality, documentation, and potentially breaching patient confidentiality due to safety concerns. What words would you use to discuss these complex topics with your patients?

How would you balance the following concepts as a dentist responding to a victim-survivor of DSV:

Clear and accurate documentation of the dental appointment, include a discussion on DSV	The patient requests to no details of the discussion on DSV are included in their records
Information sharing within a dental practice	The patient requests that only the dentist know of their disclosure of DSV
Your concerns and assessment of immediate safety for the patient in a non-mandatory reporting jurisdiction	The patient requests that no action is to be taken with in a third party, and in their instance, they are ok to return home
Mandatory reporting when the patient does not give informed consent	The patient refuses to give informed consent or participate in the reporting process

Managing Risk And Your Own Responses To Knowing About DSV

The purpose of these educational resources is to teach you how to appropriately respond and refer once you have recognised your patient has, or is currently, experiencing DSV. A disclosure of DSV from a patient via a screening process or during the dental procedure can be confronting. Your care and concern for a patient will assist you to appropriately provide information and, if possible, a referral to a specialist DSV service. However, it is important that your concern not propel action that does not align with the patient's needs, or potentially increases their risk. Please consider recent statistics show that leaving a relationship is the most dangerous time for women and children.²⁰



As such, it is important to not encourage or pressure patients into leaving a DSV relationship.

It is important that we use language that is supportive, and accurate. Following a disclosure of DSV, using statements such as “we’ll get you the help you need”, “you can go to a shelter and be safe there” may alleviate our feelings of distress and/or meet our need to ‘rescue’ the patient. However, **these are not accurate statements**. While specialist DSV services endeavour to provide responsive and comprehensive support, there are systemic issues that can impede a patient accessing the services they need, for example: wait lists for DSV specialist services, limited or no available accommodation in domestic violence shelters, delay in receiving Centrelink payments as a single parent and challenges finding appropriate housing.^{3,21}

‘Unintended consequences’ is an important concept to consider when responding to DSV. As the term suggests, it relates to a patient experiencing consequences that were not intended during our response to a disclosure of DSV. See educational resource: ‘Considering unintended consequences’ for more details.

It is important to remember that a patient’s risk of DSV does not increase now that you know about their past or current experience of DSV.

Other Themes Explored In The Video

In addition to the legal and ethical considerations, this video explores the following themes:

- Working with people from culturally and linguistically diverse (CALD) backgrounds; see the Educational Resource: ‘Working with First Nations people’ for more details
- Strangulation:
 - Is a significant ‘indicator’ and/or ‘red flag’ for increased risk of domestic violence homicide. If you are unable to refer this patient to a DSV service, you may like to speak to them briefly about this increased risk and talk through a basic safety plan.²²⁻²⁴
 - Can be the cause of petechiae (however, petechiae can also be indicative of other conditions). As such, be aware of any additional ‘indicators’ and/or ‘red flags’ that suggest your patient has experienced strangulation.²²⁻²⁴
 - Can have serious impacts on the patient’s health immediately after the incident and for weeks and months into the future²²⁻²⁴ If a patient presents with suspected strangulation, please inform them of the potential complications, and encourage them to seek immediate medical assessment at an emergency department.²²⁻²⁴

- As with other topics noted in this educational resource, what information you document regarding domestic and sexual violence in general, and strangulation specifically, will need to be informed by your organisational policy, and state and national legislative requirements.

Note: this educational resource provides basic information about strangulation. In addition, the video does not show the dentist dialoguing with the patient specifically about their disclosure of strangulation. As such, see the 'resources' section to obtain further information about this complex topic

Example Scripts

Each of the following scripts are examples only, and you will need to adapt them so they sound more 'natural' to you. Each time you use these scripts with a patient, you need to consider:

- the patient's particular circumstances
- organisational policy and procedure
- State-/ Territory legislative requirements
- National legislative requirements
- requirements of your professional association.

Note: Before discussing DSV with a patient, it is important to remind the patient of informed consent and what your legal and procedural obligations, potential mandatory reporting, and documentation requirements.

See Educational Resource: 'The Basics' or 'The Full Skill Set' for 'screening' and 'opening the conversation' scripts.

Example Script: Risk Assessment

"Is this the first time something like this has happened?"

"Has the violence been increasing or happening more often?"

"Are you feeling safe enough to return home after your appointment?"

"Would you like help with any of this now?"

"Would you like me to keep a record of this for you..."

Example Script: Confidentiality And Patient Records Regarding DSV

"All information disclosed is confidential to this practice unless you tell me about current child abuse, childhood sexual abuse, or if I am concerned that you are at immediate and/or significant risk of harm to self, others or by others. Also, if you tell me any information about domestic and sexual violence, I will include this on your patient records. I know this a lot of information to go through at the beginning of an appointment. We can go over that information again, but do you have any questions at the moment?"

Example Script: Discussion On Documentation

"I take notes about your dental health, the dental injury, and the dental procedures I do today. I can write down that information about your experiences of domestic and sexual violence. I don't have to include the details of our conversation on your file, but I do need to note that we've spoken about this today. It can be useful to keep full details for the next dentist and if you ever decide to go to the police or apply for victim support. Do you want me to include these details?"

Example Script: Potentially Breaking Confidentiality To Report DSV Concerns To A Third Party

Note: this script will need to be adapted to reflect your state and national legislation.

"I'm really concerned about the immediate safety of you [and your children]. I know you said you will not accept a referral, and it is your right to do so. However, I will be seeking guidance from a DV service about my concerns for your safety. Based on their guidance if the risk is assessed as high enough, I may break our confidentiality which can be done according to the legislation and provide your details and my concerns to an appropriate service so that they can intervene if necessary to try and offer you with additional support and protection. If you like I can tell you if this occurs so you know that you and your partner might be contacted by specialty services."

Critical Reflection

Critical reflection is a key skill incorporated into these educational resources to build dental workforce capability to recognise and respond to DSV. Critical reflection involves reflecting on your own values, assumptions, personal and professional power, opinions, and experiences in relation to a chosen topic.²⁵ Critical reflection takes time and honesty, and is an ongoing process.²⁵ The aim of these critical reflection questions is to engender shifts in your thinking, attitudes and behaviour in relation to DSV, including uncovering and adjusting unconscious / implicit bias.^{26,27} As part of the development of these educational resources, the project team undertook regular critical reflection. As such, the project team has included critical reflection questions related to the video scripts where our own unconscious / implicit bias emerged. Through critical reflection, dentists and health care professions can enhance their ability to offer services that are more equitable, and informed by accurate statistics, sound research, the stories of victim-survivors of DSV, and the practice wisdom of specialised DSV workers.²⁶⁻²⁸

What is your current understanding of why victim-survivors return to a DSV relationship?

How will you foster being non-judgemental and providing support to a patient who is returning to a DSV relationship?

What support can you access if you become distressed knowing a patient is returning to a DSV relationship?

In the scenario, ending one, the patient leaves the dental clinic abruptly. What actions would you take in this situation? Consider: client files, client follow-up, and accessing support for yourself.

Note: See the Cycle of Violence information included in the Educational Resource 'The Basics' to understand how a victim-survivor may be able to gauge when she is at 'low risk' of DSV. Remember:

- *a patient's risk of DSV does not increase now that you know about their past or current experience of DSV*
- *to consider 'unintended consequences' to ensure that your care and concern not propel action that does not align with the patient's needs, or potentially increases their risk*

Relevant Resources

Office of the Australian Information Commissioner: Privacy: <https://www.oaic.gov.au/privacy>¹⁷

ADA Policy Statement 5.18 - Dentistry privacy and confidentiality
<https://ada.org.au/policy-statement-5-18-dentistry-privacy-and-confidentiality>¹⁸

ADA, 2021, [ADA Guidelines for Dental Records](#)¹⁹

Red Rose Foundation – Strangulation Trauma Centre website:
<https://www.redrosefoundation.com.au/strangulation>

Training Institute on Strangulation and Prevention
<https://www.strangulationtraininginstitute.com/training/webinars/>

[Australian Institute for Strangulation Prevention](#)

[Signs and symptoms of strangulation](#)

Recommendation To Map Your Relevant Local Services

You are encouraged to collate the contact details for your local DSV services for your future reference. A list of local services can supplement the national and state resources included in this document.

Final Message

A working knowledge of key concepts including documentation of patients' experiences of DSV, informed consent, mandatory reporting, and unintended consequences are required to appropriately recognise, respond, and refer patients who are victim-survivors of DSV.

Notes

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- Actor: Ina Indriana

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