

BREACH OF CONFIDENTIALITY

When a mobile device, that contains private health information or client information, has been stolen or lost the counselor must contact clients in a timely manner. This is imperative from both a legal and ethical perspective. It is equally important that a report be filed with law enforcement as soon as one learns their mobile device has been lost or stolen.

Caveat: The professional codes of ethics do not and should not deal with specific pieces of technology. Maintaining confidentiality and protecting client privacy is foundational to psychotherapy, and the potential risks to confidentiality associated with lost or stolen laptops, flash drives, PDAs, and cell phones are well-known. Just as ignorance is not a defense against violations of a law, carelessness and laziness are not an excuse for violating professional ethics and responsibility. Should a therapist's laptop or cell phone be lost or stolen and a client's confidentiality violated, the therapist must be able to demonstrate they did everything reasonably possible to secure the device and the information therein in order to minimize liability.

SAMPLE BREACH OF CONFIDENTIALITY NOTIFICATION

CAVEAT: For use in your own setting, forms must be personalized to reflect your state's relevant laws, ethical requirements for your licensing, and your own actual policies.

Recently, a _____ was stolen from _____ that may have contained the names and confidential information of some clients or former clients of _____. On _____ (date), we sent out personal notices, by first class mail, to each of the individuals who may have been impacted, for whom we were able to locate a current address. There were some individuals whose current addresses we were unable to obtain.

We have no reason to believe that the person who stole the laptop targeted personal information, nor do we believe there is any significant probability that personal harm will result from this breach. *OPTIONAL AND ONLY USE IF RELEVANT: The _____ (device) did not contain _____ that is typically used to perpetrate identity theft or financial fraud.*

The information stolen contained the following data:

_____.
[Counselor or business name] takes computer and data security seriously and we continue to provide strong protection for our systems and work computers and other mobile devices. As a result of this incident, an investigation is underway looking into this incident, including an audit of the security of client records and we will be taking appropriate responsive action. A police report has been filed.

If you have any questions or would like to verify whether your information may have been involved, please contact us at _____ or send an e-mail message to _____.

REMEMBER TO:

Include appropriate lines for signature and date

Keep a copy of any document that was signed by a client in the client's file (hardcopy or electronic)

Copy to client optional, unless they request a copy

ASSIGNMENT (Self-reflection and/or Group Discussion)

Each of the above requests asks for the full formal report, the original test data, and copies of each of the tests you administered (for example, instructions and all items for the MMPI).

To which of these people are you ethically or legally obligated to supply all information requested, partial information, a summary of the report, or no information at all?

Which requests require having the boy's written informed consent before information can be released?