



Self-Represented Litigation Network

A Summary of Ethical Guidelines for Conducting Interviews and Data Collection

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A Summary of Ethical Guidelines for Conducting Interviews and Data Collection¹

This document summarizes procedures that courts should follow when collecting information on individuals. These procedures apply to information collected through structured questionnaires, informal one-on-one interviews, focus groups, exit surveys, customer satisfaction surveys, needs assessments, telephone interviews, or review of non-public case files. These procedures apply equally to formal research studies and relatively informal research. The guidelines in this document draw on accepted social science research standards for protecting research subjects and they align with federal policy (Code of Federal Regulations, Title 45, Part 46) that governs protection of human subjects in federally funded research.

Appendix I lists websites with additional information.

I. What is ethically sound data collection?

Ethically sound data collection procedures apply to all participants in research. This includes individuals that you interview, ask to fill out a survey, or ask to participate in a focus group. Ethically sound data collection procedures are voluntary, informed, safe, and confidential. In ethically sound research:

- Individuals make a voluntary decision about whether to take part in the study.
- Individuals are informed of the purpose of the study, what their participation will involve, how their confidentiality will be protected and how the information they provide will be used and stored.
- The confidentiality of all participants, and all information and data collected from or about them, is protected.
- The safety of all participants is protected.

¹ This document was created by the California Administrative Office of the Courts for use in California studies and used here by permission. In order to further the goal of consistency of court practices, it is provided for other courts' use.

II. All participation must be voluntary

All individuals must be given the opportunity to make a voluntary decision about whether to take part in a study. They should be informed, both verbally and in writing, that participation is strictly voluntary and that they can refuse to participate or withdraw at any time, without penalty. They should be informed that refusal to participate will not affect their case, in court-based research, or their access to services. Appendix II gives samples of written information on voluntary participation.

III. All individuals must be informed

Participants in a study must be fully informed about the nature of the research in which they are participating. This is known as informed consent. Information should be provided verbally and in writing. To document that participants have given their informed consent to participate, you may wish to have them sign a consent form.

Describe the purpose of your study in writing and refer to it when speaking with individuals whom you are inviting to participate. Provide participants with a written copy of these materials. (See the following table for the points to cover). You may print information on fliers, consent forms, or other documents. The written materials do not need to be extensive – you should be able to include all necessary points on one page. Follow these guidelines for written materials:

- Print written materials on letterhead from your agency.
- Use terms prospective participants can understand. Adjust the language you use to a level appropriate for the population and avoid using legal or technical phrases.
- Interpretation and translated forms should be made available to individuals who are not comfortable being interviewed or filling out forms in English.
- Include a contact person and phone number for further questions.

Information to Provide about the Study

1. Introductory information

- Name the agency for which you work.
- Provide the name of a contact person with a telephone number to call for questions either before or after participating in the study.
- Outline the reason you wish to interview individuals.
- Summarize whom you wish to include in your study (e.g., women with an open family law case).

2. Inform individuals that their participation is voluntary

- Invite them to take part and tell them that participation is voluntary and that they can refuse to participate or withdraw at any time, without penalty. When interviewing individuals with active court cases, inform them that refusal to participate will not affect their court case.

3. Describe the interviews and what participants will need to do

- Describe what participants will do during the study or what data you will collect.
- Provide the location of the interviews and the time commitment required.
- If you are audio or videotaping the interviews or focus group, inform potential participants.

4. Address potential concerns and describe the benefits of participating

- Emphasize that the information participants provide will not affect their court case or services.
- Describe risks and benefits in a straightforward, truthful way. If you offer incentives, present this neutrally, not as the main reason to participate.

5. Outline who will have access to any information collected

- Tell individuals that only persons involved in collecting and compiling the information collected will have access to it.
- Describe how you will store the information and who will have access to it.
- Let potential participants know if and how you will inform them of study results.

6. Provide information about confidentiality and how results will be used

- Tell individuals that you will keep the information that they provide confidential. (Include any limits on confidentiality – i.e., legal reporting requirements).
- If you are conducting a focus group, ask all the participants not to reveal to anyone else who participated in the group or what they said during the discussion.
- If any data that you collect in your study may be subject to discovery or subpoena, inform potential participants.
- Tell them how the results of the study will be used or published, and that these published reports will keep participants' identities confidential.

IV. Protect the confidentiality of individuals

Set up careful interview and data collection procedures that will maintain the confidentiality of the individuals that you interview. If you tell participants

that their responses will remain confidential, you must make every effort to fulfill that assurance. If information you collect is open to mandatory reporting requirements, discovery or subpoena, you must inform participants of this.

Appropriate Settings for Interviews

The location where you hold your interviews can affect your ability to maintain the confidentiality of individuals' participation and their responses to your questions.

- If you have participants complete a written survey, locate a private setting for them to do so.
- Never conduct oral interviews or focus groups in open areas where others could overhear. If possible, offer individuals the option of being interviewed in a private room.
- Do not leave completed surveys out where someone else could read them.

Collecting Identifying Information

Maintaining the confidentiality of the individuals who participate in your study should govern the procedures used to store all data and identifying information. In many studies, you do not need to collect identifying information about participants. However, this may be necessary in studies that involve re-interviewing participants over time or in studies that involve linking data about participants from multiple sources.

Records that identify participants in your study should always be kept in a secure location in locked file cabinets. If you are entering information from your surveys or interviews into a database, do not enter identifying information in the same database that you use to enter data collected from or about participants. Instead, assign each participant a numeric identification code. Any records linking the identification code to the name of the participants should be kept in a secure location, separate from the study databases.

Avoiding *ex parte* communications

Judges and court staff should not participate in post-hearing interviews in which litigants could have a reasonable concern that their statements, or the statements of the person on the other side of the case, could get back to the judge or a staff person who could influence court action on a case.

Reporting Information

If you report any information that the individuals provide, take measures to protect their confidentiality and prevent negative repercussions.

- If any study participants have unique characteristics that could be used to identify them, do not report this information.
- Do not report verbatim responses if they could identify a participant.

V. Safety Issues and Minimizing Risk to Participants

Participating in your interviews can present risks to individuals, including mental distress resulting from discussion of a sensitive topic and compromise of their physical safety.

Designing and Asking Questions

Minimize the level of distress that the questions you ask during your interviews may cause:

- If participants do not wish to answer questions you ask, do not pressure them to do so.
- Consider the value of asking for information about a participant's experience with issues such as violent victimization.
- Consider the possibility of repercussions if information a participant provides is divulged.
- Do not give any information about the study or its purpose to anyone but the person who has agreed to be interviewed. Do not indicate to anyone else that a study participant is participating in the study.

Research with Victims of Domestic Violence

Study participation can compromise the physical safety of participants who have experienced domestic violence.

- If you plan to interview domestic violence victims in person, make sure you do so in a secure setting and that other individuals, particularly batterers, do not know that the victim is participating.
- Do not risk putting persons in danger by delaying them as they are leaving a courtroom, or interviewing them in a setting where they are vulnerable.
- If you interview victims of domestic violence by telephone, ensure that victims are able to participate in a private setting and that other individuals, particularly batterers, are not aware that they are participating and are not aware of their responses.
- A litigant who brings a support person to court (whether or not he or she is a victim of domestic violence) should be given the choice as to whether the support person accompanies him or her on the interview.

VI. Other considerations

Informing the court.

In any study that involves collecting data in the courts, it is essential to contact the presiding judge, the court executive, and the trial court judges in writing to inform them of data collection plans and describe the study prior to conducting any data collection.

Training staff.

Persons involved in the study, including interviewers, consultants, data specialists, and support staff, must be trained in informing individuals on voluntary participation and the nature of the study, and on ensuring confidentiality of information and the safety of participants.

Appendix I

Sources for More Information

Many websites contain tutorials about protection of human subjects. Some of them are listed below. The link to the federal policy on protection of human subjects is also provided.

American Association of Public Opinion Research Standards
www.aapor.org/ethics/

American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct 2002*
www.apa.org/ethics/

Code of Federal Regulations: Title 45, Part 46
www.access.gpo.gov/nara/cfr/waisidx_00/45cfr46_00.html

National Institutes of Health Tutorial on Title 45, Part 46 – Protection of Human Subjects
ohsr.od.nih.gov/mpa/45cfr46.php3

National Institutes of Health Office of Human Subjects' Research
ohsr.od.nih.gov/guidelines.php3

National Institutes of Health Computer-based Training: Human Participant Protection Education for Research Teams
cme.nci.nih.gov/

Chapter 3 of the Privacy Act of 1974 provides information about methods for handling, storing, and transporting confidential data.

National Center for Education Statistics Web site:
nces.ed.gov/statprog/rudman/chapter3.asp#3.

Appendix II

Sample Adult Consent Form

<< Insert Agency Name and Address/Print on Letterhead >>

<<Date>>

My name is <<interviewer name>> and I work as a <<interviewer role>> for the << agency name>>. <<Provide reason why agency is conducting the study>>. As part of that process, << agency name>> would like to find out from <<whom you wish to include in your study>> about <<describe the information you are collecting>>. I would like to invite you to participate in the <<interview/survey/etc.>>.

Your participation in the <<interview/survey/etc.>> is completely voluntary. It will not affect your case in any way. You may refuse to participate in the <<interview/survey/etc.>> or any part of the <<interview/survey/etc.>>. All the information you provide will be kept completely confidential. No reference will be made in written or oral materials that could link you to the study. In reports, the information you give us will be combined with what we get from everyone who participates in these interviews.

If you take part in the <<interview/survey/etc.>>, you will be asked to do the following: <<interview activities>>.

The <<interview/survey/etc.>> will be held <<where and when>>. <<With your permission, interviews will be audio or videotaped (if applicable)>>.

By participating, you will have the opportunity to provide our agency with important information about your experience to help us improve services to <<families and children, other groups served>>. <<Participants will also receive \$X/a snack for participating (if you are offering incentives)>>.

If you have any questions about the study, you may write or call <<contact name and title>> at <<location and telephone number>>. Thank you for your participation!

By signing this form, you are indicating that you have read and understood the information provided about your participation in this <<interview/survey/etc.>>.

Signature of participant

Date

Participant name (please print)

Sample Survey Cover Sheet

<< Insert Agency Name and Address/Print on Letterhead >>

The << agency name>> is <<provide reason why agency is conducting the study>>.

As part of that program, our << agency>> would like to invite you to complete the attached survey to inform our understanding of <<describe the issue being studied>>. By participating, you will have the opportunity to provide our << agency>> with important information about <<describe the information you are collecting>> that will <<describe potential positive impact of the study or knowledge gained>>. All the information you provide will be kept completely confidential. No reference will be made in written or oral materials that could link you to the study. In reports, the information you give us will be combined with what we get from everyone who participates in these interviews. Your participation in the interviews is completely voluntary. <<It will not affect your case in any way>>. You may refuse to participate in this survey and omit responses to any question.

If you have any questions about the study, you may write or call <<contact name and title>> at <<location and telephone number>>. Thank you for your participation!