

Violence Against Women Act (VAWA) 2005 Reauthorization Forensic Compliance Mandates

Brief Overview

“Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.”

42 USCA S. 3796gg-4 (d) (1)

- Generally described as a two-prong approach to compliance:
 - 1) Ensuring victims of sexual assault are afforded forensic medical examinations *without* requiring cooperation with law enforcement and/or participation in the criminal justice system; and,
 - 2) States ensure that victims do not have any out of pocket expenses associated with the provision of the sexual assault forensic examination.
- Although the VAWA 2005 reauthorization mandates that States certify that they meet the forensic requirements, it does not articulate to States the method of compliance. Therefore States differ greatly in their approach to compliance. “Anonymous reporting”, “Blind reporting” or “Jane Doe reporting” are only examples of ways in which States can meet the forensic compliance mandate.
- A Blind or Anonymous system generally means that law enforcement is involved on some level – in many cases driven by the need to accept the evidence for storage. Therefore, this often translates to a police report generated to continue the chain of custody and establish a place holder, if you will, for the evidence to be stored (and tracked) within the local (or state) law enforcement agency. The “type” of police report (sexual assault, rape, miscellaneous, etc.) may vary greatly.
- *The term “Jane Doe”, however, has a different connotation – especially with law enforcement. When using the terminology “Jane Doe” with law enforcement, it conjures up the image of the same terminology used when responding to “Jane Doe”*

- homicides. Officers may assume that both a police report and an investigation need to be initiated (which is not the case).
- States and territories must ensure that victims are not responsible for any portion of the sexual assault forensic examination *regardless* of what funds they choose to use for payment of those exams. Further guidance regarding the parameters pertaining to funding of exams can be found in OVW's Frequently Asked Questions (pages 22-25): http://www.ovw.usdoj.gov/docs/FAQ_FINAL_nov_21_07.pdf
 - The forensic compliance mandates are applicable for teens and adults (see page 25: http://www.ovw.usdoj.gov/docs/FAQ_FINAL_nov_21_07.pdf). However, states and territories are to adhere to their respective state mandatory reporting laws. For example, cases that are classified as "child abuse" are still subject to mandatory reporting laws of the state or territory.
 - Many states have developed statewide planning forums to identify victim-centered multi-disciplinary strategies to meeting the compliance mandates. To assess what statewide planning efforts are ongoing within your own state, contact your state STOP Administrator. Contact information for all STOP Administrators is available at: http://www.ovw.usdoj.gov/docs/admin_contact_list.pdf
 - Further information may be obtained through the U.S. Department of Justice, Office on Violence Against: <http://www.ovw.usdoj.gov/index.html>.
 - The Office on Violence Against Women has designated the Maryland Coalition Against Sexual Assault (MCASA) as the national technical assistance provider on this issue. MCASA is charged with providing technical assistance to States as they work toward implementing changes within their policies and procedures to ensure that they are in compliance. Further information regarding the national technical assistance project can be found at: www.mcasa.org.
 - States and territories will need to certify that they are in compliance with the mandates by January 5, 2009. The certification applies to practices throughout all states and territories and is not limited to STOP grantees.