Ensuring Forensic Medical Exams for All Sexual Assault Victims:

A Toolkit for States and Territories

The Violence Against Women Act (VAWA) Forensic Compliance Project

A Cooperative Agreement Between the U.S. Department of Justice, Office on Violence Against Women and the

MCASA
Maryland Coalition Against Sexual Assault
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# Ensuring Forensic Medical Exams for All Sexual Assault Victims: A Toolkit for States & Territories

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INTRODUCTION

Violence Against Women Act

Every state and territory receiving STOP (Services • Training • Officers • Prosecutors) Violence Against Women Grant Program (STOP Program)\(^1\) formula grant funds from the U.S. Department of Justice, Office on Violence Against Women (OVW), must certify by January 5, 2009, that it is in compliance with the revised forensic medical examination requirements of the Violence Against Women Act of 2005\(^2\) (VAWA 2005) in order to remain eligible for funding. This document, known as a “Toolkit,” is designed to help states and territories address compliance with this requirement codified in federal statute 42 U.S.C.A. § 3796gg-4, which states, “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.” This means that states must ensure that victims of sexual assault can get a forensic medical exam free of charge or with full reimbursement regardless of whether they report the crime to police or otherwise cooperate with the criminal justice system.

Instituting the medical forensic examination certification requirement certainly poses implementation challenges, many of which states and territories will continue to face well after the January 5, 2009, compliance deadline. Therefore, the purpose of the Toolkit is to provide states and territories with information, resources, considerations, and examples of how to implement compliant policies and procedures with an emphasis on a victim-centered and multi-disciplinary approach. The Toolkit is a product of the Violence Against Women Act (VAWA) Forensic Compliance Project, and was produced cooperatively through the U.S. Department of Justice Office on Violence Against Women and the Maryland Coalition Against Sexual Assault, with the collaboration of three pilot sites—North Dakota, Virginia and Wyoming—and the input and guidance of a national

\(^1\) U.S. Department of Justice, Office on Violence Against Women. OVW FY 2008 STOP Violence Against Women Formula Grant Program (CFDA 16.588).

\(^2\) 42 U.S.C.A. § 3796gg et seq.
working group comprised of members representing states, law enforcement, prosecution, health care and victim advocacy.

The Violence Against Women Act (VAWA) was first signed into law as part of the Violent Crime Control and Law Enforcement Act of 1994, recognizing the need to address violent crimes that disproportionately impact women. It was reauthorized in 2000 and in 2005. Acknowledging the prevalence of violence against women and the persistently low reporting rates of such crimes, VAWA and subsequent legislation affirm the need for a comprehensive response to address domestic violence, dating violence, sexual assault and stalking, with dual objectives of enhancing the criminal justice system’s ability to hold offenders accountable and enhancing victim services. The legislation passed with strong bipartisan support and broad agreement among lawmakers that a coordinated, multi-disciplinary effort is essential to meet victims’ needs and bring offenders to justice. VAWA strongly encourages states and territories to convene law enforcement, prosecutors, courts, victim advocates and other stakeholders to establish an implementation plan for responding to violence against women within their respective jurisdictions.

When Congress reauthorized VAWA in 2000 and again in 2005, it established groundbreaking new initiatives to enhance the justice system’s response to domestic violence, dating violence, sexual assault and stalking and expand victim services. With respect to sexual violence, VAWA 2005 initiatives included requirements related to sexual assault forensic medical examinations, prohibitions on polygraphing of victims, and other protections.

The STOP Program is a formula grant program authorized by VAWA of 1994. Each year, eligible states and territories receive a base amount of $600,000, plus an additional amount based on population, to enhance the criminal justice system’s response to violence against women and provide services to victims of domestic violence, dating violence, sexual assault and stalking.

STOP grant recipients (i.e., states and territories) are required to allocate 25% of their award for law enforcement, 25% for prosecution, 5% for courts, and 30% for victim services. The remaining 15% is discretionary, allowing states and territories to direct funds as needed within the scope of the STOP Program. The STOP Program places a special emphasis on programs for un-served and/or underserved populations such as immigrants, minorities and individuals with disabilities.

The Office on Violence Against Women

The Office on Violence Against Women (OVW), a component of the U.S. Department of Justice, administers the grant programs authorized by VAWA and subsequent legislation. OVW provides “…national leadership in developing the nation’s capacity to reduce violence against women through VAWA,” overseeing administration of the federal grant programs and providing financial and technical assistance to states, territories and local communities throughout the nation to implement programs in an effort to reduce domestic violence, dating violence, sexual assault and stalking.

OVW is committed to assisting states and territories in negotiating what may be a significant overhaul of current procedures by providing them the necessary technical

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4 Also known as Sexual Assault Forensic Examinations (SAFEs) or medical forensic examinations.
5 U.S. Department of Justice, Office on Violence Against Women. Program Brief: STOP Violence Against Women Formula Grant Program.
7 U.S. Department of Justice, Office on Violence Against Women. Program Brief: STOP Violence Against Women Formula Grant Program.
9 U.S. Department of Justice, Office on Violence Against Women. Overview.
10 Ibid.
assistance as they work to implement their medical forensic examination obligations. To this end, OVW entered into a cooperative agreement with the Maryland Coalition Against Sexual Assault (MCASA) to create the national technical assistance project known as the VAWA Forensic Compliance Project.

**VAWA Forensic Compliance Project**

**Victim-Centered Multi-Disciplinary Approach**

The VAWA Forensic Compliance Project has an overriding commitment to victim-centered, multi-disciplinary approaches to resolving forensic compliance issues. Strategies included in this document, the Toolkit, demonstrate solutions that promote and prioritize the needs and well-being of the victim while ensuring the four core disciplines—law enforcement, prosecution, health care and victim advocacy—are partners in the development, implementation and delivery of services to meet the compliance mandates.

**National Working Group**

To ensure MCASA’s work reflects a diversity of views, regional and national perspectives, and a multi-disciplinary approach, OVW and MCASA formed a National Working Group (NWG). These experts have significantly contributed to the framework and development of the Toolkit. More importantly, the NWG was responsible for the scope of the content, helping to identify promising practices for multi-disciplinary, victim-centered response and barriers to implementation. The NWG also provided significant guidance on particular issues and, in conjunction with the VAWA Forensic Compliance Project, responds to technical assistance requests as needed. A complete roster of NWG members is attached as *Exhibit A*.

**Technical Assistance**

Throughout the course of the Forensic Compliance Project, technical assistance is available to states and territories upon request. Answers are provided to such questions as the practical application of the statutory mandates, types of compliant systems, information regarding what other states or territories have implemented, and emerging promising practices.

Between December 2007 and January 2008, all states and territories were surveyed to ascertain the “state of the nation” and identify promising practices. Surveys were directed to all STOP Administrators and the directors of state sexual assault or dual coalitions. Responses were received from 59% of the jurisdictions surveyed, providing a wealth of information concerning their current status, barriers they face in implementing compliant procedures, and strategies they have adopted. The survey tool is attached as *Exhibit B*. Information from the survey as well as lessons learned from the day-to-day provision of technical assistance have been synthesized and interpreted in aggregate form. You will find the results highlighted throughout this document.

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11 The Forensic Compliance Project is currently funded through April 2009.

12 A dual coalition is a coalition that addresses both sexual assault and domestic violence.

13 Total number of states and territories is 56 (50 states, 5 territories, and the District of Columbia).
For most states and territories, the forensic compliance requirement is a monumental change in public policy, as it directly impacts the way states and territories make available forensic exams to victims of rape and sexual assault. Although the policy change will most likely be enacted on a state level, it must also be implemented in local jurisdictions to result in meaningful change for sexual assault victims and ensure compliance with the federal statute. Recognizing the challenges set forth by the federal statute, OVW and MCASA sought to provide customized, intensive technical assistance to a limited number of jurisdictions. Applications were solicited from states and territories seeking individualized assistance, with three states—North Dakota, Virginia and Wyoming—selected as pilot sites to receive dedicated assistance from project staff and to benefit from the expertise of the National Working Group. Each of the three pilot sites is separate and distinct, with unique challenges associated with the implementation of policies and procedures designed to ensure that all victims of sexual assault are able to obtain a forensic medical examination without being required to report the sexual assault to law enforcement.

The variety of challenges presented, and the diverse approaches to problem solving employed to overcome them within the pilot sites’ respective jurisdictions, are not necessarily unique. The challenges faced by the pilots are consistent with survey results of all states and territories. The processes that the North Dakota, Virginia and Wyoming pilot sites have undertaken are shared in aggregate throughout the Toolkit. The lessons learned are among the most significant influences on the content of the Toolkit. They are included to guide others’ implementation of policy changes within their own jurisdictions.

This document, “the Toolkit,” is designed to meet the needs of a variety of audiences—STOP Administrators, sexual assault coalition directors, statewide planning entities, and other stakeholders. In addition to serving as a planning tool for states and territories, the Toolkit is intended to serve as a resource for law enforcement, health care providers, victim advocates and other stakeholders for issues specific to their respective areas of expertise.

The Toolkit serves a dual purpose. The Toolkit is designed to serve as a checklist for those states and territories not currently able to confidently certify that every sexual assault victim within their state or jurisdiction is able to receive a forensic medical examination if the victim chooses not to report the assault to law enforcement. The Toolkit will assist these states in assessing what aspects of the system’s response in their own jurisdictions may still require work, and provides a framework to assist jurisdictions with their planning processes and policy development. Equally important, for those states and territories able to certify they are compliant with VAWA 2005 and satisfied that all victims of sexual assault throughout their jurisdiction are able to receive a forensic medical examination whether or not they immediately report the sexual assault to law enforcement, this Toolkit will serve as a mechanism to enhance current policies and procedures to meet the standards of promising practice in addition to implementing compliant policies.
The Toolkit will also provide guidance to those jurisdictions that wish to transform their current “letter of the law” approaches to strategies that are more victim-centered. Readers will learn from the promising practices adopted by other jurisdictions. Through the use of the Toolkit, states and territories will also learn from the challenges other jurisdictions have faced, the problem-solving processes undertaken, and the solutions uncovered.

VAWA 2005 clearly mandates that states and territories certify that sexual assault victims are able to access sexual assault forensic medical examinations throughout their state. Although the federal statute provides the incentive for policy change, it is silent regarding the logistics of implementation, deferring to states and territories. This Toolkit is designed to assist states and territories with the process, articulating the issues to be considered, potential barriers, and, perhaps most importantly, presenting possible solutions that other states may learn from and adopt.

**The approaches used by states and territories as they work to implement compliant policies and practices will vary greatly throughout the nation.** For some, the planning process, discussed within *Steps Towards Establishing a Compliant System—Working Toward a Compliant System* (page 14), may involve strategic planning to tackle numerous issues related to both access and the reimbursement process. Another course of action could be to develop an ad hoc committee to troubleshoot emerging issues associated with implementation of the new statute. Others may use a top-down approach to communicate policy changes and to ensure compliance within their jurisdiction. This Toolkit provides examples of how several states successfully changed their policies.

**Methods for effecting change will also vary greatly throughout the nation.** Some states have enacted enabling legislation; others have developed statewide policies. Some have produced directives for dissemination throughout their jurisdiction(s), while others have determined there is a need for local autonomy and have deferred to their local jurisdictions to develop policies. Recognizing that one size does not fit all, this Toolkit provides several examples of methods used throughout the nation.

**Policies, practices and resources related to initial responses to sexual assault victims who present to health care facilities** vary greatly throughout the nation. Some jurisdictions benefit from a comprehensive coordinated Sexual Assault Response Team (SART) whose policies and procedures allow specially trained professionals to provide a consistent, comprehensive response to victims of sexual assault within the health care setting and greater community. Other jurisdictions, however, struggle with inconsistent responses. For example, health care facilities may or may not have professionals who are specially trained to provide sexual assault forensic medical examinations. Advocacy services, if available, provide support to the victim and, if the victim requests, accompaniment during the examination. In some jurisdictions advocates may not be available to victims around the clock; or a victim may present at a hospital where forensic medical examinations are not routinely performed and be asked to travel to an alternative facility, thus leaving the transportation logistics to the victim.

It is not uncommon for states to struggle with one or more of these issues. Even in states with excellent programs, services may be geographically limited, resulting in

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15 “Health care facilities” is a comprehensive term used to include the numerous options where victims of sexual assault may present for medical treatment, including forensic medical examination: hospitals, clinics, community-based health care programs, stand-alone rape crisis centers and/or examination facilities, and other alternate health care facilities.
service gaps. The implementation of mobile SANEs to travel to victims, being considered by some low-population jurisdictions, may also present obstacles. In addressing the challenges that victims may face when presenting, states and territories will have taken the first steps towards developing a response where all victims are able to access forensic medical examinations.

**Jurisdictions will need to identify responses that are reasonable for their communities given the physical and financial constraints they face.** Regardless of local jurisdictions’ limitations, a consistent, uniform response providing an established standard of care for victims of sexual assault is strongly encouraged. Whether a jurisdiction has a coordinated, multi-disciplinary, victim-centered response, or has a limited number of trained examiners and few advocates, there are several basic premises states and territories should consider as they work toward compliance, keeping in mind that a positive professional first response is critical to ensuring that all victims have access to forensic medical examinations. This Toolkit reviews the principles critical to implementing successful strategies.

**States and territories must also consider evidentiary issues.** The integrity of evidence collected and the chain of custody must be maintained. This Toolkit discusses points for states and territories to consider in developing policies that maintain the integrity of the evidence and chain of custody when responding to victims who participate in a forensic medical examination but defer reporting the assault to law enforcement to a later date. The victim’s decision to delay a report may certainly have an impact on the prosecutor’s decision to prosecute the case and/or potential litigation. Further details regarding the potential benefits and risks of delaying a report are explained in Background—Criminal Justice Philosophy (page 11).

**The Toolkit also presents several different “types” of systems states have adopted.** The chapters of Types of Compliant Systems (page 38) discuss overriding themes of each compliance type, as well as practical considerations. Examples from jurisdictions throughout the nation are illustrated and specific policies are attached as exhibits.

This Toolkit will guide states and territories as they work beyond certification and continue to implement and enhance policies and procedures toward a multi-disciplinary, victim-centered response in all communities. Included in the Toolkit are ideas to help states and territories educate stakeholders throughout their jurisdictions on established compliance protocols and to encourage continual monitoring of performance.

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**Forensic Medical Examination Compliance Issues**

"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 U.S.C.A. § 3796gg-4(d)(1)

VAWA 2005 included a requirement specific to the availability of and payment, or reimbursement, for sexual assault forensic medical examinations for all victims of sexual
assault.16 Prior to VAWA 2005, the state, Indian tribal government, unit of local government or other governmental entity was required to pay for the sexual assault forensic medical examinations or ensure victims were provided reimbursement for the exams; but, because the statute was silent on the matter, they had the discretion to make such payment or reimbursement contingent upon a victim’s decision to report to law enforcement.17 VAWA 2005 includes a requirement that to be eligible for STOP funding, states must ensure access to sexual assault forensic medical examinations for victims who choose not to report the sexual assault to law enforcement. An additional eligibility requirement for STOP funding is that states must assure that victims are provided a forensic medical examination free of charge or with full reimbursement, without being required to report to law enforcement and/or participate in the criminal justice system as a condition of the payment or reimbursement.

All states, territories, and the District of Columbia are currently eligible to apply for and receive STOP formula grant funds. To continue to be eligible for STOP funds, they must certify by January 5, 2009—three years from the date of enactment of VAWA 2005—that they meet the statutory eligibility requirements of VAWA 2005.

Practical Application of the Statutory Requirements

The changes within VAWA 2005 are designed to promote a more victim-centered approach to reporting among victims of sexual assault. They also aim to enhance prosecution of sexual assault cases and create a more victim-friendly environment that will ensure that all victims of sexual assault have access to a forensic medical examination. However, these changes present a number of challenges for states and territories as they work to develop and implement VAWA-compliant policies and procedures.

For example, hospitals and medical providers, law enforcement agencies, prosecutors, rape crisis centers and other victim service providers must develop policies and procedures to address the handling of evidence collected from victims who defer reporting to law enforcement. Concerns to be addressed include where the “non-reported” forensic evidence will be stored during the period when the victim is deciding whether to report the sexual assault to law enforcement, for how long the evidence will be held and, in localities utilizing an “anonymous” reporting system, the individual or agency responsible for retaining the information necessary to link the victim’s identity to the evidence gathered. Logistical challenges also exist around the payment for forensic medical exams in jurisdictions where payment has traditionally been tied to law enforcement involvement, since an examination may no longer be conditioned upon the victim’s choice to participate by reporting the sexual assault.

The challenges states and territories face may be significant. Complying with the STOP statute requirements related to forensic medical examinations may translate to the removal of gatekeepers who have historically authorized the forensic medical exam to be conducted by a health care provider. Often, this gatekeeper has been a law enforcement agency. Many law enforcement agencies, in addition to providing authorization for the examination to be conducted, also purchase and house the sexual assault evidence collection kit18 until an exam is needed. Further, many states have required a police report for purposes of reimbursement for the examination, documenting that the victim not only underwent the examination but also reported the assault to law enforcement. States and territories will benefit by involving all stakeholders in the development of policies and procedures.


\[17\] Ibid.

\[18\] Formerly referred to as a “rape kit,” and sometimes referred to as a biological forensic examination kit (Bio Kit) or Physical Evidence Recovery Kit (PERK kit). Because medical forensic evidence is collected from victims of other sex crimes in addition to rape, and because the evidence collected may include items such as clothing and bedding, the term “sexual assault evidence collection kit” is used in this document. Additionally, the term “rape kit” may be misconstrued to refer to the items a perpetrator uses against the victim.
BACKGROUND

Incidence

Data from the Uniform Crime Report tell us more than 92,000 forcible rapes were reported to law enforcement in 2006.\(^{19}\) Unfortunately, this statistic does not accurately portray the incidence of rape and sexual assault in our nation. It reflects only those crimes captured as forcible rapes and does not include many other forms of sexual assault. Perhaps more significantly, the number is contingent upon the forcible rape crimes being reported to police. Sexual assaults, including rape, remain the most under-reported crimes in our nation,\(^{20}\) with only 36% of rapes being reported to police.\(^{21}\)

Randomized, confidential surveys of individuals throughout the country have attempted to determine a more accurate representation of the incidence of rape and sexual assault. Recently published findings from the National Crime Victimization Survey (NCVS)\(^{22}\) confirm the underreported nature of these crimes, reporting over 270,000 rape or sexual assault crimes occurring within the same year. Another study found that 18% of all women surveyed and 3% of all men surveyed had been raped in their lifetime.\(^{23}\)

Given these findings, it is projected that one out of six women, and one out of every thirty-three men, will be sexually assaulted in their lifetime.\(^{24}\)

The crimes of rape and sexual assault do not discriminate, as females and males of all ages, races, ethnicities, abilities, sexual orientations, and socio-economic backgrounds may be victimized by sexual violence. There are, however, several subpopulations experiencing higher rates of rape and sexual assault.

Women are more likely to be the victims of sexual assault than men.\(^{25}\) When men experience sexual violence, they are much more likely to be victimized at an earlier age, with 70% of all male victims reporting they were “raped before their 18th birthday.”\(^{26}\)
research found the rate at which women were raped as children or adolescents continues to climb annually.\textsuperscript{27} Fifty-four percent (54\%) of the female rape victims identified within the survey were under 18 years old when they experienced their first rape.

American Indian/Alaska Native women are much more likely to be sexually assaulted than African American, White or Hispanic women.\textsuperscript{28} Research findings clarified that these data were based upon individuals reporting victimization in the survey, therefore challenging that the findings may in fact represent reporting trends, rather than trends in incidence.\textsuperscript{29} The rates of sexual victimization among White, African American and “other races” of women were found to be equal.\textsuperscript{30} Women of mixed race, however, reported “…significantly higher rates of rape victimization”\textsuperscript{31} than any other race.

Another population particularly vulnerable to sexual violence is women on college campuses, among whom the rate of sexual victimization far exceeds that of the general population. A research study completed by the National Institute of Justice found that approximately 3\% of all female college students were victims of a completed or attempted rape during an academic year.\textsuperscript{32} Projecting reporting rates from the academic year survey period over the average five-year college career, it is estimated that one in every five female students will experience rape during her college years.\textsuperscript{33}

The majority of victims are assaulted by someone they know. Over 80\% of all sexual assault victims indicate they were attacked by an intimate, other relative, friend or acquaintance.\textsuperscript{34} Seventeen percent (17\%) of all women and 23\% of all men are sexually assaulted by strangers.\textsuperscript{35} The majority of sexual assaults do not occur in a public environment, but within a home, hotel or vehicle.\textsuperscript{36}
Underreporting

Extensive research has been conducted to determine the prevalence of sexual violence—reported and unreported—with studies consistently concluding that rape and sexual assault remain among the most underreported crimes in our nation.\(^{37}\) Depending on the particular study, the range of reporting rates for rapes and sexual assaults reported to police vary between 16 and 41%,\(^{38}\) meaning more than half of all rapes and sexual assaults go unreported.

A comprehensive study conducted by Dean Kilpatrick and others found formal reporting rates to tend toward the lower end of the spectrum.\(^ {39}\) A randomized study conducted of approximately 5,000 individuals nationwide revealed that only 16% of all victims of rape chose to report the crime to police.\(^ {40}\) Although reporting to police has increased over the past thirty years,\(^ {41}\) the increase was attributed to third-party reporting, such as another member of the family, neighbor, bystander, or friend, as opposed to reporting by the victims themselves.\(^ {42}\)

Certain populations are less likely than the general population to report a sexual assault. For example, the reporting rate for college students is significantly lower than for the general population, with only 5 to 10% of all sexual assault victims attending college reporting the rape to police.\(^ {43}\)

There are many factors that may contribute to a victim’s decision not to report an assault to law enforcement. National Crime Victimization Survey (NCVS) responses indicate that in the majority of sexual assaults the victim knows the offender as an intimate, other relative, friend or acquaintance.\(^ {44}\) In these cases, the victim may have ongoing interaction with the offender, complicating the decision-making process behind reporting. The victim may reside with or near the offender, be reliant upon the offender for financial support, or share children in common.

Other factors that may affect a victim’s decision not to report include: considering the rape or sexual assault to be a “personal matter,” “reporting to a different official,” and concern for “police bias.”\(^ {45}\) Additionally, “being blamed by others,” “family finding out,” and a victim’s “name(s) being made public by the news media” also have been found to contribute to a victim’s reluctance to report the crime to police.\(^ {46}\) Perhaps most notably,
one-half of all female victims and one-fifth of all male victims indicated they were afraid of being killed when the rape was committed.\footnote{P. Tjaden and N. Thoennes. 2006, January.}

### Criminal Justice Philosophy

Changes enacted by VAWA 2005 mean a sexual assault victim now has the right to have a forensic medical examination without being forced to decide, immediately after an assault, whether or not to report the assault to law enforcement. The option to have evidence collected and preserved in a timely manner now exists, allowing the victim to defer the decision of whether to officially report the crime to police.\footnote{Many states have statutes mandating health care professionals report to law enforcement certain situations where patients present for treatment of sexual assault. Generally speaking, these situations include vulnerable populations such as children and elderly and/or disabled individuals and are designed for the protection of those individuals. States and territories should defer to their state laws concerning mandatory reporting situations. Such state laws may also include reporting of violent crimes or reporting of injuries caused by lethal weapons.}

The timely collection of evidence may impact the likelihood of conviction. Forensic medical exams, prompt reporting, and scientific evidence are directly related to an increased rate of arrest of sexual offenders, as well as an increased number of prosecutions, and have a positive influence on the outcome of sexual assault prosecutions.\footnote{T.P. Scalzo. Rape and sexual assault reporting laws. American Prosecutors Research Institute National Center for Prosecution of Violence Against Women: The Voice 1 (3).} However, it is important to recognize that when an assault is not reported to law enforcement as soon as possible, the prospect of conducting a thorough investigation may be diminished.

The opportunities for law enforcement to conduct interviews of witnesses, thoroughly investigate the crime scene, or collect additional evidence from alternative crime scenes may be eliminated completely. The impact of a deferred report to law enforcement and the potential negative bearing of a delayed investigation upon prosecution should be shared with the victim prior to the collection of evidence in an honest and neutral manner, so that a victim is informed not only of her or his options, but also of the benefits and risks of deciding not to report to law enforcement at the time of the forensic examination.\footnote{More information regarding informed consent can be found in Ensuring Access to Examinations—Initial Response (page 23).}

Nevertheless, successful evidence collection during forensic medical examinations has a direct correlation to successful prosecution of cases.\footnote{R. Campbell. 2004, November.} The circumstances under which evidence is collected play an essential role in the future of the case long before it enters the courtroom. For example, physical evidence connecting the suspect to the crime is a critical variable prosecutors consider when determining if and/or how they will proceed with a case.\footnote{C. Spohn and D. Holleran. 2001, September.}

The quality of forensic medical examinations (also known as SAFE exams [Sexual Assault Forensic Examinations]) in relation to enhanced sexual assault prosecutions has
Forensic medical exams can document evidence of the sexual assault and in some instances find evidence of sexual contact, including penetration (if applicable), identify injury consistent with forcible sexual contact, and/or document injury consistent with the victim’s description of assault. Although forensic evidence can be collected for up to 96 hours or longer, collecting evidence within 24 hours of an assault has been associated with more positive outcomes within the criminal justice system. The benefit of a trained, experienced Sexual Assault Nurse Examiner (SANE) supports a prosecutor’s case, as studies “…suggest that SANE programs increase prosecution.”

A recent study conducted jointly by the National District Attorneys Association (NDAA) and Boston College has reported tangible outcomes regarding the efficacy of forensic medical exams conducted by a Sexual Assault Nurse Examiner. The study found that forensic medical exams conducted by SANEs “…significantly increase the likelihood that charges would be filed in sexual assault cases.”

Studies in New York State produced similar results. The Manhattan District Attorney’s Office, in conjunction with St. Luke’s/Roosevelt Hospital Center (Crime Victims Treatment Center) and the New York City Alliance Against Sexual Assault (NYCAS), conducted their own study of the role of forensic medical examination evidence in the disposition of sexual assault cases. Their results were published in a report entitled “The Impact of Medical Evidence on Criminal Justice Outcomes.” The study found that prosecutors utilized evidence from the forensic medical examinations in 39.3% of all cases. Prosecutors reported that documentation of injuries, the determination of the presence of semen, and DNA testing were the primary benefits of the forensic medical examination as they tried their cases. Prosecutors also suggested that the evidence was equally important to jurors to “corroborate the victim’s story.”

Recently released research sponsored by the National Institute of Justice confirmed that media heavily influence potential jurors. Heavily-watched crime-related shows such as Crime Scene Investigation (CSI) and Law and Order were found to have a significant bearing on individuals’ expectations regarding the role evidence plays in trials. Only 14% of those surveyed indicated they would find the defendant in a rape trial guilty without “scientific evidence” accompanying the victim’s testimony. Twenty-six percent indicated that if there were no scientific evidence, they would find a defendant charged with rape not guilty. Because some jurors report they require scientific evidence before being willing to convict a defendant of rape, and forensic medical examinations may produce that evidence, access to forensic medical exams plays a central role in successful investigation and prosecution.

**Health Care Philosophy**

Sexual assault victims’ increased access to forensic medical exams provides an opportunity to address immediate medical concerns, as well as an occasion to address the potential long-term health and psychological effects of sexual assault. Currently, the vast majority of rape and sexual assault victims do not seek medical care following the assault. Victims who report to law enforcement, however, are more likely to receive medical care. Research found that 59% of all victims choosing to report the victimization to...
law enforcement received medical treatment. In contrast, only 17% of all rape victims who did not report the victimization to police received medical care. It is important that victims have access to medical care to address immediate medical concerns, including the possibility of sexually transmitted diseases or even pregnancy, as 4.7% of all rapes result in pregnancy. Medical care may also serve as an opportunity to educate sexual assault victims on the link between sexual assault and potential future health problems.

The National Violence Against Women Survey (NVAWS) found that 32% of women and 16% of men who were sexually assaulted sustained physical injuries in addition to the sexual assault. Victims reported a variety of injuries including scratches, lacerations, bruises, welts, broken bones, dislocated joints, chipped or broken teeth, sprained muscles and internal injuries. In this same study, slightly over 3% of all victims reported having contracted a sexually transmitted disease as a result of the rape.

Of victims receiving injuries in addition to the sexual assault itself, only 36% seek medical treatment, leaving over 60% of injured victims without medical care. Research indicates a sexual assault victim benefits in numerous ways from a consistent response, streamlined services, and increased quality of care provided by a trained forensic examiner who fully understands the issues associated with victimization.

The changes in VAWA 2005 reflect the hope that victims will be more likely to seek medical care if they are afforded the opportunity to obtain a forensic medical examination as a part of the care they receive, regardless of whether they choose to report the incident to police. Increased access to medical care, with the forensic medical examination component to that care, has the potential to improve survivors’ physical and mental health, increase rates of prosecution and conviction in criminal sexual assault cases, and result in healthier, safer communities.

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65 Data is based upon survey responses targeting sexual assaults occurring within the past 12 months prior to the interview.


67 Ibid.

68 P. Tjaden and N. Thoennes. 2006, January.


90 R. Campbell. 2004, November.
STEPS TOWARDS ESTABLISHING
A COMPLIANT SYSTEM

Working Toward a Compliant System

A Checklist for States and Territories

The Federal Statute

The federal statute encouraging the enhanced protections for sexual assault victims, as it relates to forensic medical examinations, essentially defines a two-prong test for states and territories. The first prong is to ensure all sexual assault victims are afforded the opportunity to have a forensic medical examination without requiring them to report the assault to law enforcement. While the statute provides the framework for the mandate, it does not dictate how it should be implemented. States and territories have great autonomy to determine how to ensure their jurisdiction complies with the federal law. There are a variety of ways to effectuate the necessary changes. Legislation, statewide policy, and guidelines for local jurisdictions are all viable options. Each option is discussed in further detail in the chapters ahead.

The second prong for compliance is to ensure that all forensic medical examinations are provided with no cost to the victim or with full reimbursement. Jurisdictions can accomplish this in a variety of ways:

- They can fund the forensic examination reimbursement program up front;
- They can have the forensic examination reimbursement program bill them directly for each examination conducted; or
- They may have the victim pay for the forensic medical examination, and the State or local jurisdiction then reimburse the victim for any and all out-of-pocket costs, provided the following conditions are met:
  - The government entity may not impose any deductible requirement or limit on the amount of a reimbursement;
  - Victims must be allowed to apply for reimbursement for at least one year from the date of the exam;
Reimbursement must be provided not later than 90 days after written notification of the victim’s expense; and

All victims, including victims with limited or no English proficiency, must be provided information regarding how to obtain reimbursement at the time of the exam.\(^70\)

Further:

- If a jurisdiction uses STOP funds to pay for the costs of the examinations, the jurisdiction may not require victims to submit the bill to their private insurance.\(^71\)
- If a jurisdiction uses state or alternative funding to pay for the cost of the exam, and chooses to bill a victim’s private insurance, the victim may not be held liable for a deductible, co-pay, or other out-of-pocket expenses.

If a state’s or territory’s existing regulation and/or statute dictates that a police report or other documentation of the victim’s cooperation with the criminal justice system be provided in order for the costs of the forensic medical examination to be reimbursed, that requirement must be remedied in order to comply with VAWA 2005.

### The Planning Process

The first step in assessing and/or ensuring compliance is to identify and convene the stakeholders. The STOP Administrator is a key player, because the agency designated to administer the STOP funds is required to certify that its jurisdiction is VAWA-compliant.

Prospective partners include the sexual assault or dual (sexual assault and domestic violence) coalition; representatives from a statewide sexual assault task force and/or Sexual Assault Response Team (SART) or other statewide planning entity, if one exists; the state health department; the area hospital association; medical providers; forensic nurses; law enforcement; and prosecution representatives.

Input from the statewide stakeholders group is necessary in designating a lead agency and/or convener. In considering an appropriate leader to facilitate this initiative, the state might draw upon prior experience with previous statewide initiatives such as the VAWA Implementation Planning Committee, statewide legislative initiatives, or perhaps ad hoc committees convened for a common purpose. Once a state or territory has identified the facilitating entity, the state must then identify appropriate stakeholders to include. Some states establish a formal agreement among the stakeholders to ensure successful implementation of the process. A checklist of agencies to consider for inclusion within this process is found in Exhibit C.
The Michigan Domestic Violence Prevention and Treatment Board offered an interesting opportunity for launching statewide planning discussions in the form of a “Think Tank.” A variety of policy-level advocates and stakeholders met on March 19, 2008, to discuss the sexual assault forensic medical examination requirements within VAWA 2005. Discussions began with a review of the federal statutory requirements and a comparison of the state’s statute, current policies and procedures, and practices throughout the state. The forum continued with a presentation of the different “types” of compliance that may be viable options for their state.

Participants quickly followed with a brainstorming session, tackling each option individually and identifying pros and cons for each. The forum resulted in several creative ideas for problem-solving, as well as an action plan for the future to continue the strategic discussions.

Educate Stakeholders on the Issues

Start with the basics to ensure that all stakeholders have a complete understanding of the issues. This includes an overview of the compliance statute, the basics of a victim-centered approach, as well as ideas on how to develop policy into practice, to include the “types” of compliant systems (described in further detail within the chapters of Types of Compliant Systems [page 38]).

To assist stakeholders with this, a PowerPoint presentation, entitled Compliance Overview, has been developed and is attached as Exhibit D.

Assess the Current Status of Your State/Territory

Typically, once stakeholders understand the forensic compliance mandates it quickly becomes apparent which rules, policies and practices need to be revised. The Compliance Overview PowerPoint (Exhibit D) may help set the stage for discussions, as it outlines barriers that states and territories commonly face. In the event that stakeholders are not aware of how the exams are currently conducted and how they are paid, an overview of that information should be presented. Stakeholders should be made aware of current statutes, administrative regulations, and other dynamics pertaining to the provision of the examinations and payment of those exams, as this will assist in identifying areas that need to be addressed.
Pilot Site: North Dakota

The North Dakota Department of Health, Division of Injury Prevention and Control, in partnership with the Office of the Attorney General and the North Dakota Council on Abused Women’s Services/Coalition Against Sexual Assault in North Dakota, were selected to represent North Dakota as one of three pilot sites throughout the nation benefiting from intensive technical assistance through the VAWA Forensic Compliance Project. One of the first tasks as part of the pilot site project was to assess the current health care response to victims of sexual assault throughout the state. Additionally, the survey was to serve as a tool to assess the reimbursement process health care facilities were accessing to seek reimbursement for the costs associated with performing forensic medical examinations.

The statewide survey, conducted in May and June of 2008, produced a 67% response rate from health care facilities throughout the state. The results of the survey were enlightening, and served as a needs assessment with regard to professional resources dedicated to the provision of forensic medical examinations and the need for additional training of examiners. Additionally, the survey results revealed the need to provide additional education to hospital administrators and billing personnel within health care facilities throughout the state regarding the reimbursement process.

Survey results are available as Exhibit E.

Project Increases in the Volume of Forensic Medical Exams

Jurisdictions can better prepare for the new examination and payment protocols if they know what to expect. This includes an estimate of the number of exams likely to be conducted for their state or jurisdiction.

Inevitably, one of the first questions that arise regarding implementation of the new policy relates to what can be anticipated in terms of an increased volume in the number of forensic medical examinations. This information is valuable to fully understanding the potential impact initiating such a policy will have upon the health care and criminal justice systems, as well as for projecting the costs associated with the anticipated increase in volume, and planning accordingly.
Unfortunately, since very little research exists, the question of how to project the increase in the number of forensic medical exams is difficult to answer. There is one venue, however, where research has provided some insight into the effect of initiating these types of policies: the military.

In June 2005, the U.S. military implemented a “Restricted Reporting”74 policy, where military victims of sexual assault have the option to report an incident of sexual assault to a health care provider, victim advocate, chaplain, or Sexual Assault Response Coordinator, but the incident is not investigated. Utilizing a Restricted Reporting process, victims are afforded services such as a forensic medical examination, advocacy, and counseling, while reserving the right to “officially” report the assault at a later date. In contrast, the Unrestricted Reporting process, when initiated, will automatically generate an investigation. Obviously, all parties are identified when the Unrestricted Policy is implemented. During the first six months of implementation, 18% of all sexual assault reports were Restricted.75 During the next twelve months, overall reports of sexual assault increased by 24%, with 26% of those victims exercising the Restricted Reporting option.76 The most recent year, fiscal year 2007, resulted in a decrease in the total number of reports to 2,688, with again 26% of all victims utilizing the Restricted Reporting option.

In 2006, 11% of all victims who originally reported through the Restricted policy eventually elected to change the report to Unrestricted. In 2007, 14% of all Restricted reports ultimately were changed to Unrestricted. Although the trend is to be noted, it is also important to discern that the military is a unique subpopulation and may not be reflective of the general population. The rate of underreporting in the general population should be taken into account, and be used as a catalyst for discussions. See Exhibit F for a one-page handout containing statistics regarding the underreporting of sexual assault.

Ensure a Victim-Centered Multi-Disciplinary Response

As previously noted, any policies and procedures related to the provision of direct services for victims of sexual assault should be victim-centered and multi-disciplinary. The importance of a multi-disciplinary approach to sexual assault is well-documented. When a community formalizes a comprehensive collaborative approach by establishing a Sexual Assault Response Team (SART), its increased collaborations can improve prevention efforts, enhance the response provided to victims, and provide better management of offenders.77 Generally speaking, likely participants on a SART include law enforcement officers, prosecutors, advocates and volunteers from the local rape crisis center, and Sexual Assault Nurse Examiners (SANEs). Studies have found that more services are being offered to victims in communities where SARTs exist.78

Victims report services are more effective when “agencies work together to meet their needs.”79 Victim satisfaction surveys indicate that when agencies work together to address domestic or sexual violence, victims report increased levels of satisfaction with the criminal justice system and case outcomes.80

A combined SANE/SART response, as offered in some communities, also yields a significant impact upon outcomes within the criminal justice system and has been found to have “…the greatest impact on charging decisions in adult female sexual

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75 Ibid.
76 Ibid.
77 Some jurisdictions refer to these multi-disciplinary teams as Sexual Assault Response Teams or Sexual Assault Resource Teams, both of which use the acronym “SART.” Others use the acronym “SARIT,” Sexual Assault Resource and Response Team. Throughout this document, the term SART is used. Responsibilities of SARTs vary, however. Some are response teams that provide a coordinated response to victims of sexual assault when they present at a hospital. Other SARTs serve as a multi-disciplinary coordinated community response (CCR) team, addressing issues pertaining to the response to victims of sexual assault in their community. Members may or may not be first responders and/or direct service providers. See K. Littel, 2001, April. Sexual Assault Nurse Examiner (SANE) programs: Improving the community response to sexual assault victims. U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, OVC Bulletin. NCJ 186366.
80 Ibid.
assault cases and is a contributing factor in the likelihood suspects will be identified and arrested.\(^{81}\) A combined SANE/SART response to a victim of sexual assault was found to increase the likelihood of charges being filed by 3.3\%.\(^{82}\) Finally, a combined SANE/SART response was also found to increase the chances of producing a conviction for the sexual assault by 3.5\%.\(^{83}\)

**Wyoming Sexual Assault Response Team (WySART)**

The mission of the Wyoming Sexual Assault Response Team (WySART) is to promote a healthy, respectful and appropriate response for victims of sexual assault within Wyoming communities through support, policy, education and training. WySART members, appointed by the Wyoming Attorney General, are charged to serve as a model multi-disciplinary team to local communities who are committed to improving their response to sexual assault victims.

WySART is comprised of two members from each of the following disciplines: advocacy, law enforcement, the Wyoming State Crime Lab, prosecution, medical administration, and practicing SANEs or SANE-trained nurses. Demonstrations of this successful collaboration include statutory changes to allow sexual assault nurse examiners (SANEs) to conduct forensic medical examinations. Prior to the statutory changes, only physicians were authorized to provide these exams.

WySART created a unique training opportunity with the Crime Lab. When Wyoming revised its Biological Evidence Collection Kit (“Bio Kit”), a statewide training was conducted, requiring community members to attend the training prior to receiving the new kits. This created an opportunity to develop and provide training over and above training on the Bio Kit, encouraging a victim-centered collaborative response to sexual assault.

WySART successfully trained all 23 counties, as well as the Wind River Indian Reservation, within a period of one year.


\(^{82}\) Ibid.

\(^{83}\) Ibid.
Ensure Successful Implementation of the Process

Training

Once a plan for compliance measures has been identified and developed and is being pursued, it is also important to ensure that the plan is communicated to stakeholders throughout the jurisdiction. A broad dissemination of informational materials describing the requirements under VAWA is essential. It is equally necessary to communicate the strategy for responding to the mandates. This may be accomplished through the distribution of a statewide policy, accompanied by a training/general education component designed to articulate the proposed process for serving sexual assault victims who do not wish to report to law enforcement and/or the criminal justice system. States and jurisdictions are encouraged to consider establishing multi-disciplinary training teams representative of the individuals targeted for training.

There are many audiences to consider for training, some of which are listed below:

- **Health care providers**—Local, regional or state/territorial chapters of the International Association of Forensic Nurses (IAFN); SANEs; emergency room personnel; triage personnel; clinics; emergency medical services (paramedics, fire departments); campus health facilities; Indian Health Services (IHS); and other alternative health care providers

- **Health care facility billing personnel**

- **State Department of Health**

- **Law enforcement personnel**—Chiefs of Police associations; Sheriffs associations; state police; campus police; local law enforcement departments; basic academy classes

- **Prosecutors**—Prosecutors’ offices, organizations

- **Statewide sexual assault coalition**

- **Rape crisis centers**—Staff, volunteers

- **Crime Victims’ Compensation**—State administrative agency

- **Legal partners**—Attorney General’s Office; Legal Aid

- **STOP Administrator**

States are encouraged to target the training to multi-disciplinary audiences that are representative of the multiple stakeholders responding to victims of sexual assault.
In July 2008, the Minnesota Coalition Against Sexual Assault (MNCASA) conducted a Webinar entitled “VAWA Forensic Compliance Issues for Advocates: Requirements and Best Practices: Translating the forensic compliance mandates within the Violence Against Women Act (2005) into practice within Minnesota.” The Webinar provided an opportunity for advocates throughout the state to be provided information on the forensic examination requirements. MNCASA staff, along with a forensic nurse examiner, provided a comparison of their state statute and practices, highlighting issues that remained to be resolved. The Webinar provided an opportunity for advocates to discuss barriers and to identify next steps. MNCASA followed the presentation with a survey asking participants to evaluate the educational opportunity, providing feedback to both MNCASA staff and Webinar presenters.

Monitoring

Jurisdictions may wish to consider implementing a process for monitoring the effectiveness of the system, both to ensure the successful implementation of new policies and procedures and to maintain the integrity of the system established. A monitoring system would be dependent upon an established case tracking system (described in further detail within Ensuring Access to Examinations—Storage, Transportation and Destruction of Evidence [page 31]). The case tracking system is designed to track the evidence from the sexual assault examination evidence collection kit from the time the examination is initiated to the disposition of the evidence, as well as, in those states or jurisdictions utilizing “anonymous” kits, the coded identity of the victim whose evidence is collected. It is imperative for states and territories to establish a reliable and valid case tracking system in conjunction with the implementation of new protocols.

The case tracking system will be valuable in collecting information regarding the number of exams for any given period of time and will also provide information regarding what, if any, increases are seen not only in the number of exams, but also in the resources necessary to ensure victims are not held responsible for the costs associated with the examinations. States and territories are also strongly encouraged to consider linking the case tracking system to a longer-term monitoring mechanism to measure several variables:

- Which cases, where the victim originally did not wish to report the assault to law enforcement, ultimately changed their course as the victim decided to pursue options through the criminal justice system?

- Of these cases, how were the investigations cleared or closed?

- Of these cases, what were the prosecutorial outcomes? (e.g., How many charges were filed? How many defendants convicted?)
In cases where the victim elected not to pursue options through the criminal justice system, what was the process, if any, for contacting the victim prior to the disposition of the evidence to advise them the evidence would be destroyed?\footnote{A more detailed discussion regarding the length of storage and the disposition of evidence occurs in Ensuring Access to Examinations—Storage, Transportation and Destruction of Evidence (page 31).}

As jurisdictions work toward implementing compliant systems, the longitudinal monitoring of such cases should be actively explored.

ENSURING ACCESS TO EXAMINATIONS

Overview

Federal Statute

| Violence Against Women and Department of Justice |
| Reauthorization Act of 2005 |

**Purpose of Program and Grants**

*(a) General Program Purpose*

- The purpose of this subchapter is to assist States, State and local courts (including juvenile courts), Indian tribal governments, tribal courts, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

42 U.S.C.A. § 3796gg-0(a)

**Rape Exam Payments**

*(d) Rule of Construction (1) In General*

- 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 U.S.C.A. § 3796gg-4

Background

Consistent with the intent of the federal statute,\footnote{42 U.S.C. 3711 et seq.} prompt evidence collection offers the opportunity to provide medical and supportive care to every victim of sexual assault as soon as possible following the assault.\footnote{For more information regarding the criminal justice and health care philosophies, see Background—Criminal Justice Philosophy (page 11) and Health Care Philosophy (page 12).} With evidence collected, the victim may either report the assault immediately or at a later time. For victims, the dilemma of having to make the decision to report immediately is removed, yet the possibility for the criminals to be apprehended and prosecuted in the future is retained.
VAWA 2005 requires that states and territories desiring to remain eligible to receive STOP Program funding must—by January 5, 2009—provide sexual assault victims access to a forensic medical examination without requiring the victim to report the assault to law enforcement. A further eligibility requirement for STOP Program funding is that the state, Indian tribal government, unit of local government, or another governmental entity incur the full out-of-pocket cost of forensic exams. In many jurisdictions, significant changes in policies and practice may be necessary to achieve compliance with the forensic medical examination access and payment requirements of VAWA 2005.

This section of the Toolkit provides states and territories information on how to implement a multi-disciplinary, victim-centered approach to establishing compliant protocols. It is our hope that states and territories will strengthen victim services by striving to meet both the letter and the spirit of the law. To that end, this Toolkit will help you build upon the foundation that you have established, providing information on promising practices and victim-centered policies and procedures and highlighting successful strategies employed by the pilot sites and other states throughout the nation. States and territories are encouraged to continually monitor and assess their policies for gaps in service delivery, as newly implemented policies often require enhancements.

**Initial Response**

**Communicating Options to the Sexual Assault Victim**

**Who Is Presenting the Reporting Options to the Victim of Sexual Assault?**

| Considerations: |
|----------------|----------|
| **Who will be the professional designated to discuss the reporting options with the sexual assault victim?** |
| ○ a victim advocate? |
| ○ a Sexual Assault Nurse Examiner? |
| ○ an Emergency Department physician? |
| ○ an Emergency Department nurse? |
| ○ triage personnel? |
| ○ other health care provider? |
| ○ law enforcement? |
| **Will the process for discussing the reporting options be consistent within your jurisdiction, or will it alter depending upon variables such as whether or not staff is available, financial resources, and/or the time of day?** |
| **Are there state mandatory reporting laws for health care providers within your state, precluding changes in the policy?** |
| **How will professionals be educated on the reporting options and trained to respond to the sexual assault victim?** |

States and territories are encouraged to consider the various points of entry to which a sexual assault victim may present to report the assault or to seek medical care.
Consideration should be given to all possible points of entry into the system to ensure a uniform, consistent response to all sexual assault victims throughout the jurisdiction. Victims of sexual assault may present to a variety of audiences—friends, family members, clergy, rape crisis centers, other supportive services programs, the criminal justice system, and/or the health care system. For purposes of this document, however, greater emphasis is placed upon those victims presenting to health care providers, rape crisis centers or the criminal justice system.

One of the first considerations is to determine who will be communicating to the victim the victim’s options in reporting or not reporting the assault to law enforcement. A victim-centered response would uniformly and consistently provide all reporting options to the sexual assault victim as soon as reasonably possible after the victim presents to the criminal justice system, rape crisis center or health care system so the victim is able to make informed decisions. Because how the victim is provided the reporting options is important, who provides the information plays a critical role in the process.

Various scenarios are presented below for states and territories to consider. The Forensic Compliance Project surveyed state STOP Administrators and coalition directors to ascertain current practices employed throughout the nation. These practices are integrated into the scenarios provided below. Exhibit G—First Responders to Victims and Exhibit H—Who Communicates Options to Victims provide summary information on survey results.

**Victim Advocates**

In some states and territories, victim advocates are responsible for providing reporting options to victims. Victim advocates, from private non-profit agencies dedicated to serving victims of sexual assault, offer an array of services to the victim including, at the victim’s discretion, accompaniment and support during the forensic medical examination. In this scenario, the sexual assault victim advocate is responsible for presenting all of the reporting options available and discussing the pros and cons of each option with the sexual assault victim; and the victim advocate supports and advocates for the victim as the victim makes an informed decision. Designating the victim advocate to present reporting options to the victim would be a victim-centered approach, ensuring the best interest of the victim is prioritized and maintained.

Relying upon victim advocates to respond to sexual assault victims in all cases is possible in jurisdictions that have advocacy organizations with adequate staffing and financial resources to respond to every sexual assault victim. However, having advocates provide the reporting options to victims may not be viable for all jurisdictions. Not all jurisdictions have the benefit of continuity of victim advocacy services. Only 31% of the nation indicate that an advocate is one of the first individuals responding to a victim of sexual assault and designated to provide reporting options to the victim.

It is not uncommon for a jurisdiction to have limited advocacy services, including limited shifts as well as periods during which an advocate is unavailable. An alternative system may need to be considered in order to provide reporting options to victims during times when advocacy services are not available. Examples of alternative systems are
Health Care Professionals

Another professional that may be considered to communicate the reporting options to the sexual assault victim is the health care provider conducting the sexual assault forensic medical examination. A growing trend across the United States is the use of Sexual Assault Nurse Examiners (SANEs) to conduct the exam. SANEs are registered nurses who receive specialized education and fulfill clinical requirements to perform these exams. Some nurses have been certified as SANEs-Adult and Adolescent (SANE-A) through the International Association of Forensic Nurses (IAFN). Others are specially educated and fulfill clinical requirements as forensic nurse examiners (FNEs), enabling them to collect forensic evidence for a variety of crimes. The terms “sexual assault forensic examiner” (SAFE) and “sexual assault examiner” (SAE) are often used more broadly to denote a health care provider (e.g., a physician, physician assistant, nurse, or nurse practitioner) who has been specially educated and completed clinical requirements to perform this exam. VAWA Forensic Compliance Project National Survey results indicated that in 69% of cases, a SANE is one of the first responders to victims of sexual assault.

Barriers to recruiting, training, and retaining specially trained forensic examiners mean that their use will not be a viable option for some states. Many jurisdictions do not have SANEs or other trained forensic examiners on staff. In North Dakota, for example, approximately 72% of all health care facilities indicated that they do not have SANEs on staff providing the forensic medical examinations.

Consequently, sexual assault patients frequently are examined by Emergency Department physicians or Registered Nurses. The VAWA Forensic Compliance Project National Survey found that in 50% of all cases, the first responder is an Emergency Department physician. While this may often be true in rural areas, it is certainly not limited to geographical areas with limited resources. In areas with a high volume of sexual assault cases, the demand for specially-trained forensic examiners can outweigh the supply, forcing hospitals to either transfer patients to alternative locations or provide the forensic medical examinations with untrained examiners. In Wyoming, a statewide survey of health care facilities indicated that 67% of physicians had not completed formal training regarding the collection of evidence from sexual assault victims.

The lack of trained forensic examiners is one of the formidable challenges states and territories may face as they work to develop protocols. The accessibility of dedicated personnel should be carefully evaluated prior to making a recommendation for SANEs or SAFE to take on the role of relaying the options to the sexual assault victim. It is important to note that STOP formula grant funds can be used to train forensic examiners.

Other Hospital Personnel

Depending upon the facility’s procedures, the first individual within the medical system who may be interacting with the victim is the person responsible for registering and/or conducting an assessment of the patient at the point of admission. The VAWA Forensic Compliance Project National Survey results reflect that in 39% of all cases that present, “other hospital personnel” are providing information regarding the reporting options to the victim.
Development of protocols, training in policies and procedures, and education of those professionals performing the forensic medical exams need to be made priorities. Health care personnel who may interact with victims of sexual violence should be well-versed on the federal statute and on the interpretation of the federal statute within their state’s and/or local jurisdiction’s policies, protocols and procedures. Also important, information as to how a victim of sexual assault may access forensic medical examination services, and how a victim who received a forensic medical examination but did not immediately report the assault may reconnect with the system to file a report or to retrieve personal items stored as evidence, should be broadly disseminated to rape crisis centers, advocacy organizations, hospitals and other medical facilities, law enforcement agencies, and other settings where victims may seek assistance. Those agencies should assure that their staff are aware of the information and have ready access to it. More information regarding training and education for a variety of disciplines can be found in Steps Towards Establishing a Compliant System—Working Toward a Compliant System (page 14).

Law Enforcement

The federal statute specifically addresses law enforcement in relation to access to forensic medical examinations. Section 3796gg-4(d)(1) of the statute provides that “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.”

Some jurisdictions continue to have health care personnel contact law enforcement as part of their routine protocol when a sexual assault victim responds to the health care facility.96 In a nationwide survey, 39% of all survey respondents indicated that law enforcement is contacted when a victim presents for medical care.97 States and jurisdictions may wish to re-evaluate this practice, provided there are no mandatory reporting laws requiring the report to law enforcement.98 A law enforcement officer in uniform, asking to speak with the sexual assault victim immediately following the trauma, may be viewed as an authority figure, and the victim could perceive no choice but to cooperate with the officer.

Historically, a law enforcement officer may have responded to the medical facility’s Emergency Department and met with the sexual assault victim. The law enforcement officer, by conducting an interview with the victim concerning details of the assault and observing the victim, would make a determination as to whether or not the elements of a crime existed. After obtaining preliminary information from the victim and determining that there existed reasonable suspicion a crime had occurred, law enforcement would then authorize the forensic medical exam and proceed with investigating the crime and securing alternative crime scenes as appropriate. If, however, the officer determined there was not reasonable suspicion of a crime, the officer may not have authorized a forensic medical examination.

Denying a victim of sexual assault the opportunity for a forensic medical examination based on her or his decision not to report the sexual assault to law enforcement would
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preclude a state or territory from certifying to compliant practices after January 5, 2009. If the practice of a law enforcement officer responding to all victims of sexual assault continues as a matter of policy or practice, jurisdictions must ensure the law enforcement officer does not deny the sexual assault victim the opportunity for the forensic medical examination if the victim chooses not to report. Law enforcement agencies in these jurisdictions should be required to establish clear, concise standard operating procedures with respect to responding to these types of events to ensure that a victim-centered approach is maintained. If the victim indicates to law enforcement officers or health care professionals that she or he is not interested in reporting or cooperating with a law enforcement investigation, the victim is to be given the option of having the forensic medical examination conducted and the evidence collected and stored for a designated period of time.

What Information Will Be Provided to the Sexual Assault Victim?

Considerations:

- Has the sexual assault victim been:
  - Informed of the options: to immediately report the sexual assault to law enforcement, or to not report the sexual assault at the time of the forensic medical examination, while retaining the prerogative to report at a later time?
  - Given specific details regarding the storage of the evidence, including the length of time the evidence will be stored and information on the destruction of the evidence?
  - Provided the name and contact information for the individual the victim is to contact in the event she/he desires to proceed with reporting the assault to law enforcement, as well as any identifying information for the evidence in the event the evidence is being stored “anonymously”?
  - Given information regarding the local nonprofit rape crisis center within the community and the services available to the victim (counseling, hotline, etc.)?
  - Informed of the potential ramifications of not immediately reporting the assault to law enforcement, including that additional evidence may be lost from crime scenes, and chances for a successful investigation and prosecution in the future may be reduced?
- Have core agencies and interested parties within your community been educated regarding the policies for victims to report at a later date, in the event the victim misplaces the information?

When reporting options are presented, there are two choices for the sexual assault victim to consider: immediately reporting the assault to law enforcement, or declining to report the assault to law enforcement at the time of the forensic medical examination while retaining the prerogative to report at a later time. In the event a sexual assault victim desires to not immediately report the sexual assault to law enforcement, but elects to continue with a forensic medical examination, the victim should be informed of the

99 It is important to note that sexual assault victims can decline to have a forensic medical examination conducted.
potential pros and cons of not reporting the assault to law enforcement immediately; provided information regarding identification, storage and retrieval of the evidence collected during the forensic medical exam; furnished contact information to be used in the event the victim desires to report to law enforcement at a later date; and given contact information for rape crisis center or other support services.

States and territories should communicate in detail with the sexual assault victim not only the reporting options, but also the pros and cons associated with reporting to law enforcement and not reporting to law enforcement, including a delayed report.

Victims’ Options:

**Reporting**

**Pros**
- The victim receives the forensic medical exam and may access treatment and counseling for physical and mental effects of the sexual assault regardless of the decision to report.
- Crime scenes may be investigated before evidence is lost.
- Witnesses may be located and interviewed while memories are fresh.
- Evidence collected in the forensic medical examination may be immediately processed.
- An immediate investigation may be conducted and evidence may lead to identification, apprehension and prosecution of the assailant.
- Some victims find a sense of closure and/or empowerment by choosing to engage the criminal justice system.

**Cons**
- The victim may fear further danger to self, family or others from the assailant in response to the victim’s interaction with law enforcement.
- The victim may be reluctant to identify the assailant or aid in arrest for a variety of reasons including financial dependence upon the assailant; assailant is father of victim’s children; victim is concerned about institutionalized racism.
- The victim may be reluctant to be identified as a victim among family or the larger community.
- An investigation could reveal illegal activity of the victim, such as drug use, underage drinking, prostitution or immigration status.
- Some victims find the criminal justice system to be intrusive and may have difficulty facing the perpetrator in court.
Delayed Reporting

Pros

● The victim receives the forensic medical exam and may access treatment and counseling for physical and mental effects of the sexual assault regardless of the decision to delay reporting.
● In cases where the victim knows or is financially dependent upon the assailant, the victim has time to address safety and financial concerns.
● Evidence collected in the forensic medical examination may be processed.
● An investigation may be conducted and evidence may lead to identification, apprehension and prosecution of the assailant.

Cons

● A thorough and successful investigation of the assault could be more difficult. Evidence and witnesses disappear, and memories fade.
● Delayed reporting may affect the perceptions and response of prosecutors and jurors and may influence the prosecutors’ ability to obtain a conviction.

An example of a disclaimer drafted by a state regarding the potential impact of a delayed report and its bearing upon future prosecution is found within an informed consent form used in the state of Utah. Utah incorporates a disclaimer that there may, in fact, be ramifications for not reporting the assault immediately. A copy of Utah’s Informed Consent Form is found as Exhibit I.

The State of Virginia furnishes another excellent example of information provided on how a delayed report may affect the outcome of a case. Virginia’s Frequently Asked Questions, written for a variety of audiences, is attached as Exhibit J.

In addition to being informed of the ramifications associated with reporting, not reporting, or delayed reporting to law enforcement, a victim should be provided specific information regarding the logistical details related to the evidence being stored. The following specifics, each described in more detail later in this chapter, should be communicated to the victim of sexual assault:

● Information regarding how long the evidence will be stored pending a decision from the victim to report the assault;
● Contact information to be used in the event the victim wishes to “initiate” a report to law enforcement (telephone number, contact name [if appropriate], hours of availability); and
● The case number or identifier the victim should use when initiating a report, linking the victim to the evidence collected within the sexual assault evidence collection kit.

100 Virginia Department of Criminal Justice Services. 2008, August. Frequently asked questions (FAQ)—Physical evidence recovery kit (PERK) authorization and payment: Improving access to sexual assault forensic examinations (Exhibit J).
How Will Options Be Communicated?

Considerations:

- Provide both written and oral information to sexual assault victims regarding the reporting options.
- Provide information in multiple formats to meet the needs of individuals who speak languages other than English, have low literacy levels, or have cognitive or physical disabilities, as required by VAWA.
- Consider including information on reporting options on the informed consent form for the forensic medical examination, which encourages professionals to provide comprehensive information to sexual assault victims regarding the options prior to the examination being conducted.

In addition to considering what reporting option information professionals will provide to the victim, jurisdictions should determine how the options will be communicated. Verbally informing sexual assault victims is certainly an important method, however jurisdictions are strongly encouraged to provide information in writing regarding the reporting options, instructions for the victim in the event the victim desires to report the assault in the future, as well as the risks associated with reporting and not reporting to law enforcement, discussed above under Victims’ Options in What Information Will Be Provided to the Sexual Assault Victim (page 27).

Some jurisdictions accomplish this communication while obtaining informed consent for the forensic medical examination and evidence collection. The National Protocol for Sexual Assault Medical Forensic Examinations states, “Patients should understand the full nature of their consent to each procedure, whether it be medical or forensic (e.g., what the procedure entails, possible side effects, and potential impact). The only way to put patients in the position of being able to make informed decisions about whether to allow a procedure is by presenting them with all relevant information. Patients can decline any part or all of the examination. However, the informed consent process includes making patients aware of the impact of declining a procedure, as it may negatively affect the quality of care and the usefulness of evidence collection.” The National Protocol also states, “Health care providers and other responders must refrain from any judgment or coercive practice in seeking patients’ consent. It is contrary to ethical and professional practices to influence their decisions.”

The informed consent form could also provide contact information should the victim have questions after discharge. All information for victims of sexual assault should be available in multiple formats to meet the needs of individuals who speak languages other than English, have low literacy levels, or have cognitive or physical disabilities.

Another option for communicating information related to reporting options is in a separate letter or form provided to the victim at the time of the exam. The City of Albuquerque, New Mexico, has produced a draft for an informed consent form regarding items collected from the forensic medical examination of non-reporting victims that includes pertinent information regarding the steps to be taken should the victim decide to report the assault at a later time (Exhibit K).
Because the victim may not retain the contact information provided at the point of examination, it is imperative that the procedures for victims to report the assault at a later date be communicated throughout the jurisdiction. All agencies should be familiar with how a delayed report is initiated, including whom to contact and how to reach them.

Storage, Transportation and Destruction of Evidence

States and territories are also faced with issues associated with the identification, transportation, storage and disposition of evidence collected in sexual assault forensic medical examinations in cases where the victim of sexual assault does not initially wish to report to law enforcement. Law enforcement agencies may be challenged with the transportation, storage and retrieval of evidence where they may or may not know the identity of the victim. The following sections related to storage location, transportation, and length of storage address issues states and territories generally will face as they work to implement policies and procedures regarding the medical forensic evidence collected in cases where the sexual assault victim chooses not to report immediately or at all.

Storage Location

Considerations:

Where will the evidence be stored in cases where the victim chooses not to immediately report the sexual assault?

- Local law enforcement agency?
- Hospital?
- State law enforcement?
- Crime lab?
- FBI?
- Other secured location?

Determining the location for the storage of evidence collected from victims of sexual assault who initially choose not to report the assault to law enforcement may be challenging. Law enforcement officers are accustomed to having custody of evidence and maintaining the chain of custody for cases they have investigated. Cases where the victim has initially chosen not to report the assault to law enforcement are unique, in that evidence is collected and presented when a law enforcement officer has not investigated or documented the sexual assault by writing a crime report. Further, the evidence may present as “anonymous,” with only numeric identifiers.

Based upon responses to the VAWA Forensic Compliance Project National Survey, states and territories often use local law enforcement agencies to store forensic medical examination evidence. Approximately 60% of all respondents indicated that evidence is stored locally in one or more jurisdictions. Forty percent (40%) of all respondents indicated that jurisdictions store evidence in a state crime lab. Oftentimes practices are contingent upon local policy and vary throughout the majority of states. National survey findings pertaining to the storage locations used throughout the nation may be found as Exhibit M.

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103 Chain of Custody: A legal term which means the movement and location of evidence from the time it is obtained to the time it is presented in court. Chain of custody requires testimony of continuous possession by each individual having possession, together with testimony by each that the object remained in substantially the same condition during its presence in his possession. (Black’s Law Dictionary, 222. 7th ed., 1999.)


Determination of the appropriate storage location may be based upon existing policies, procedures and facilities. Generally speaking, local law enforcement agencies have been storing evidence within their own agency facilities. In addition, states sometimes have statutes with defined parameters for evidence storage that may limit storage options for “anonymous” evidence. Virginia, for example, has a statute clearly defining not only the mission of the state’s crime lab facility, but also the parameters of what is eligible for storage within the facility. Virginia’s statute clearly defines the scope of what can be accepted in the facility. It is interpreted to be exclusively evidence for which there is an active investigation, which precludes the facility accepting evidence from cases where the victim initially chooses not to report or proceed. Statewide, many of Virginia’s law enforcement agencies have been sending all sexual assault evidence collection kits directly to the crime lab for processing, and had never been challenged with identifying a repository for evidence collected that was not associated with a report and an active investigation. Local law enforcement departments within Virginia were not equipped with evidence storage repositories, which illustrates the importance of determining up front if there are any existing statutes or policies directing the storage location.

The chain of custody must be maintained for all evidence from the point of collection through disposition. If the evidence cannot be accounted for at all times beginning with the collection, there exists the possibility that the evidence was compromised. It is difficult for evidence to be admitted if the chain of custody is not intact.

Hospitals

Hospitals may serve as storage repositories and may be successful in meeting both short-term and long-term requirements of protecting the integrity of evidence. However, storing evidence, especially long term, is not a role hospitals are accustomed to fulfilling. Maintaining evidence on a short-term basis while awaiting law enforcement to transport it to their agency may be a responsibility hospitals are more willing to accept than that of a permanent repository. Thirty-one percent (31%) of all respondents to the nationwide survey indicated that hospitals are utilized to store evidence within their state. Survey responses, however, indicated there were multiple storage options within their respective jurisdictions, suggesting that many states defer to local law enforcement agencies to identify the appropriate evidence storage repository in cases where the victim does not elect to report the assault to law enforcement.

The length of time evidence is being stored within hospitals varies throughout the nation. There are jurisdictions that store the evidence for up to two weeks until law enforcement arranges to pick up the evidence and transport it to their agency for long-term storage. Other jurisdictions store evidence up to 30 days.

In Types of Compliant Systems—Healthcare-based System (page 38), the discussion highlights that a common characteristic of that system is that hospitals store the evidence. Law enforcement is contacted only in the event that the sexual assault victim chooses to report. New York is an excellent example of a state that requires that all hospitals maintain evidence for at least 30 days (and many will hold the kits longer, if not indefinitely). This allows a victim the opportunity to decide whether or not to turn the evidence over to law enforcement.
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In addition, the New York State Department of Health has created certified SAFE Center of Excellence Hospitals. These hospitals are charged with maintaining certification standards, recruiting and training specially trained forensic examiners, and providing coverage around the clock.

Transportation of Evidence

Considerations:

- Will transportation of the sexual assault evidence collection kit be required from the health care facility to an evidence storage facility?
- Who will be responsible for transporting the evidence to the storage facility? Will alternative forms of transport be required?
- How will the individuals responsible for transporting the evidence be contacted when a sexual assault evidence collection kit is ready for pick up?
- What are the expectations in terms of time limitations for picking up the evidence?
- Will the transportation system identified within the jurisdiction stand up to challenges regarding the chain of custody?

Results of a national survey conducted of STOP Administrators clearly demonstrated that nationwide the primary transporter of evidence from health care facilities to evidence storage facilities is local law enforcement. Over 55% of all respondents indicated local law enforcement officers assisted with transporting evidence from the health care facility to the evidence storage facility.

The issue of transportation is directly linked to the “type” of system implemented within a jurisdiction. If, for example, a Healthcare-based System is utilized, the evidence may be retained and stored at a local hospital. If an Anonymous System is used, law enforcement officers are generally not initially involved unless the victim chooses to report the assault. However, in cases where the sexual assault victim chooses not to report the assault initially, it may require law enforcement officers’ involvement in terms of transportation of the evidence to the local law enforcement agency for storage. If this is the case, this may present as a barrier for law enforcement, as they may be redirected from patrolling or responding to calls to retrieve the evidence and transport it back to the evidence storage facility. It may also be a resource issue for many departments and may be viewed as a barrier in some jurisdictions. Law enforcement in rural environments may experience even greater challenges, given limited resources and greater distances between destinations.

To address resource issues related to transporting evidence in cases where the victim does not wish to initially report the assault to law enforcement, several jurisdictions have implemented creative solutions. For example, hospitals may serve as short-term repositories for evidence storage, maintaining the evidence and chain of custody while allowing local law enforcement to schedule to transport the evidence at a convenient time, anywhere from a shift (eight hours) to two weeks later.

109 Forty hospitals are certified by the New York Department of Health as SAFE Centers of Excellence. These hospitals have special responsibilities to meet the needs of victims of sexual assault, including certified Sexual Assault Forensic Examiners on-site or on-call available to the victim within 60 minutes of arriving at the hospital, except under exigent circumstances. See New York State Department of Health glossary—Sexual Assault Forensic Examiner (SAFE) Center of Excellence, available from [http://hospitals.nyhealth.gov/learn.php?t=SAFE](http://hospitals.nyhealth.gov/learn.php?t=SAFE), and the New York State Department of Health Protocol for the acute care of the adult patient reporting sexual assault, Attachment D—Responsibilities of hospitals with a DOH-certified SAFE program compared to hospitals without a SAFE program related to the treatment of victims of sexual assault, available from [http://www.health.state.ny.us/professionals/protocols_and_guidelines/sexual_assault/](http://www.health.state.ny.us/professionals/protocols_and_guidelines/sexual_assault/).


112 See VAWA Forensic Compliance Project Survey Results: State STOP Administrators—Transportation Methods Utilized by States/Territories to Transfer “Anonymous” Kits to Storage Facility, attached as Exhibit N.

113 There are various systems states and territories may implement to be compliant with VAWA 2005. These fall into four basic categories, or “types”—Healthcare-based, Anonymous / Blind / Jane Doe, Anonymous Mandatory Reporting, and Evidence-based Prosecution—described further in Types of Compliant Systems (page 38).
Some jurisdictions utilize alternative services to transport evidence from the health care facility to the evidence storage facility. The nationwide survey\(^\text{114}\) revealed that courier services such as FedEx and UPS are used to retrieve the evidence and deliver it to the evidence storage facility in approximately 2% of the nation.\(^\text{115}\) Most commonly, the use of courier services is found in rural areas where transportation is a primary barrier.\(^\text{116}\) The use of courier services that are familiar with using chain of custody transportation and storage for toxicological testing may be a viable option for health care facilities. Courier services may be able to adapt these methods for the transportation of evidence kits.

Regardless of the systems identified for evidence transportation and storage, the integrity of the evidence must be maintained. Prosecutors should be included in the multi-disciplinary planning process through which evidence transportation and storage system policies are crafted and approved. It is the prosecutor who must withstand challenges to evidence in the courtroom.

**Length of Storage**

<table>
<thead>
<tr>
<th>Considerations:</th>
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<tbody>
<tr>
<td>● Will evidence in cases where the victim has not reported to law enforcement be stored for the statute of limitations?</td>
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<tr>
<td>● If evidence will not be stored for the statute of limitations, what length of storage has been identified? How was that policy determined?</td>
</tr>
<tr>
<td>● Are there any state statutes governing the destruction of evidence?</td>
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Another issue to consider is the length of time evidence will be stored. Jurisdictions often struggle in establishing guidelines for the maximum length of time sexual assault forensic medical examination evidence will be stored. Practical matters, such as the space required within the storage facility to store evidence long-term, emerge as issues to be addressed to accommodate cases where the victim chooses not to initially report the assault.

In a national survey of STOP Administrators in early 2008,\(^\text{117}\) 27% reported their jurisdictions store evidence for the statute of limitations. For those jurisdictions without a statute of limitations, this poses a dilemma. Does this mean that jurisdictions are storing evidence “forever”? States generally are cautious, if not reluctant, to go beyond what may be articulated within their statute to define an alternative period of storage in cases where the victim chose not to report. For jurisdictions identifying an alternative period of time for storage, the key to success is ensuring that consistent policies are maintained. A summary of the nationwide survey findings regarding length of storage can be found as Exhibit O.

Prosecutors and law enforcement may be reluctant to destroy evidence before the statute of limitations expires. An important consideration for jurisdictions is whether there are any existing state statutes pertaining to the destruction, or disposal, of evidence. States may look to state statute pertaining to the length of time evidence is to be stored for felonies pending prosecution as well as after prosecution and conviction. Alternatively,
policies specific to the storage of evidence collected from non-reporting victims may be developed, such as in New Mexico, whose draft policy proposes holding evidence for 365 days, and New York, which stores evidence for a minimum of 30 days. The same authority may govern the conditions under which evidence is to be destroyed.

**Processing Evidence**

Jurisdictions may deliberate processing the evidence collected in cases where the victim does not wish to report the offense to law enforcement at the time the forensic medical examination is conducted. States that consider processing all evidence in non-reporting cases generally do so in the interest of preserving the evidence in the event the victim decides to report at a later time. Oftentimes this recommendation is brought up by a prosecutor or an experienced investigator who may be concerned about serial rapists or general public safety issues for the greater community. States and jurisdictions may also be attracted by the prospect of processing the evidence immediately to avoid logistical concerns regarding the facilities and space needed to protect the integrity of the evidence long term, such as maintaining optimal temperature conditions.

Jurisdictions should, however, take into account the potential ramifications of processing evidence in non-report cases. First, jurisdictions are strongly encouraged to consider the potential repercussions for victims, including their emotional and physical well-being. Second, jurisdictions also need to consider larger aspects, such as it has not established that a crime has occurred and consensual partners have not been excluded.

A strong victim-centered policy is strongly encouraged when considering the processing of all evidence in non-reported cases, as it may directly impact a victim’s decision whether to receive an examination. For instance, what if the processing of the evidence within the sexual assault evidence collection kit produces a “hit,” a lead to the perpetrator? Would the victim be contacted? If so, how will this contact take place? If the victim were to remain reluctant to report the assault to law enforcement, what would be the response from law enforcement and/or prosecution?

If evidence will be processed, victims should be advised of this as part of the informed consent process and this information should be included in the informed consent form provided to the victim for review and signature prior to the collection of evidence. All information for victims of sexual assault should be available in multiple formats to meet the needs of individuals who speak languages other than English, have low literacy levels, or have cognitive or physical disabilities.
When a Victim Later Chooses to Report the Assault

States and territories must consider what procedures will be followed when a victim later chooses to report the assault. There are numerous logistical details that need to be considered as procedures are developed.

Considerations:

- *When the victim elects to report the assault, whom should the victim contact? Law enforcement, the hospital, advocates?*
- *How will the victim make the connection? What phone number will be used? Will the individual be available around the clock, or only during designated hours?*
- *What information will the victim need to have available when reporting the assault? How will the sexual assault evidence collection kit be linked to the victim, if, for example, the kit is being stored “anonymously”? Is there a numeric identifier?*  
  
120 (See below for more information regarding Case Tracking Mechanisms.)

Some of these considerations lead to more questions than answers, as each jurisdiction must develop policies that work for its particular state or locality. What may work in one jurisdiction may not work in another. For example, if in one jurisdiction there is a coordinated and comprehensive Sexual Assault Response Team (SART), the procedures may be developed with current SART protocols in mind. Another jurisdiction may not have a coordinated response program, and may elect to develop alternative procedures. Regardless, states and jurisdictions should strive for consistency within their policies regarding the response to victims who later choose to report the assault to law enforcement and make plans to assure that all of those involved in sexual assault cases know where to refer a survivor who contacts them with a request to report. All stakeholders should be familiar with the protocols and understand how to access the delayed reporting system.

Case Tracking Mechanisms

Considerations:

- *Victim confidentiality must be protected.*
- *The Health Insurance Portability and Accountability Act of 1995 (HIPAA) and its implementing regulations (found at 45 CFR Parts 160 and 164) established national standards for the protection of certain individually identifiable health information created or held by health care providers and others. Interpretation of the laws depends on individual situations and the laws of the particular state.*  
  
121 Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, Regulation Text (Unofficial Version).
- *Case identification in an “anonymous” reporting system should be consistently applied and all stakeholders informed as to its application.*

120 If truly an “anonymous system,” sexual assault evidence collection kits will be identified by a numeric identifier, often a serial number or processing number from the kit.
STOP Administrators and Coalition Directors surveyed in early 2008\textsuperscript{122} revealed a variety of case tracking methods currently being employed by jurisdictions that choose to implement Anonymous Systems.\textsuperscript{123} Of those responding to the survey, the large majority of jurisdictions reported that they use the serial number, or other identifying number, from the sexual assault evidence collection kit. Other jurisdictions choose to utilize the patient’s medical identification number, or to create a dedicated non-identifying numeric system. Another case tracking system implemented has been a numeric system utilizing the forensic nurse examiner’s identification number along with the date and time of the exam, thereby creating a unique identifier. This system has the added benefit of providing a method to connect a victim and kit at a later date should the victim not have retained the required information. \textit{Exhibit P} \textsuperscript{124} includes survey findings regarding case tracking methods.

Regardless of the system employed within a jurisdiction, a key to success is consistency with the tracking mechanism. All stakeholders who will be utilizing the system should be familiar with the protocols, understand the case tracking system, and understand how an identification number is generated.

\textsuperscript{122} VAWA Forensic Compliance Project National Survey, December 2007–January 2008 (\textit{Exhibit B}).

\textsuperscript{123} See VAWA Forensic Compliance Project National Survey Results: State STOP Administrators—Mechanism Used to Track “Anonymous” Kits, attached as \textit{Exhibit P}.

\textsuperscript{124} Ibid.
TYPES OF COMPLIANT SYSTEMS

There are several themes, or “types,” of compliant systems that are emerging throughout the nation. Illustrations of the four types are described below, with practical examples provided of each. It is important to recognize that jurisdictions do not have to neatly correspond to the types illustrated below. The examples of compliant systems provided are meant to serve only as guidance, with the understanding that the success of securing a compliant system within states and territories may require flexibility within the multi-disciplinary planning process.

Healthcare-based System

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HEALTHCARE-BASED SYSTEM

Guiding Principle:

Emphasis is on a health-care response to victims of sexual assault and prompt evidence collection.

Characteristics:

- Victims are offered a forensic medical exam regardless of their decision to cooperate or participate with the criminal justice system.
- From a law enforcement perspective, no assault has taken place unless and until the victim elects to report at a later date.
- Evidence is generally stored within the health-care facility.
- Generally seen in communities where Sexual Assault Response Teams (SARTs) have been established.

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Overview

The Healthcare-based System emphasizes a health-care approach in responding to the victim and in many cases a health-care model for evidence storage. Ideally, a sexual assault victim presenting in a Healthcare-based System environment would experience a seamless response of health care, forensic evidence collection, and advocacy services. This model is seen most often in jurisdictions where a comprehensive and collaborative response is provided to victims of sexual assault, such as those hosting a sexual assault response team (SART).

Procedures vary as to the chain of events when a victim presents to a health-care facility. The victim may be directed to a sexual assault nurse examiner (SANE), who contacts an advocate from a rape crisis center; or the health-care facility may contact an advocate first to review options with the victim. Alternatively, some health-care facilities simultaneously dispatch advocates and SANEs.
When available, the advocate offers upon arrival to accompany the victim during the examination and to provide other supportive services. The victim may elect to have the advocate present during the examination, or may decline. This decision may be influenced by the jurisdiction’s confidentiality laws and policies, which the advocate will have explained.

The sexual assault forensic examiner begins by initiating a dialogue with the victim of sexual assault that includes providing an overview of the sexual assault forensic medical examination and its potential usefulness in any potential investigation and prosecution. The sexual assault forensic examiner may ask the sexual assault victim whether or not she or he would like to report the incident to law enforcement. If the victim declines reporting to law enforcement, the sexual assault forensic examiner may explain that another option exists: the evidence may be collected and stored for a specific period of time and, in the event the victim chooses to report the sexual assault to law enforcement in the future, the evidence will be available to initiate the criminal justice response.

An example of a Healthcare-based System response and statewide standard of care for sexual assault forensic examinations is New York State. New York, through public health law, articulates standards for hospitals designated as Department of Health (DOH)-certified SAFE Centers of Excellence. New York has, through legislation, promulgated professional standards for hospital-based SAFE (Sexual Assault Forensic Examination) programs, as well as training and certification for individual forensic examiners.

New York hosts multiple DOH-certified SAFE Center of Excellence facilities, all of which store evidence for not less than 30 days to allow the victim the opportunity to consider whether to proceed with reporting to law enforcement and/or participating with the criminal justice system. New York’s Healthcare-based System provides a seamless response to victims of sexual assault regardless of the victims’ desire to report the assault to law enforcement. Because evidence collected by sexual assault forensic examiners is maintained by all hospitals for not less than 30 days following collection, law enforcement does not obtain information about the sexual assault unless the victim later chooses to report to law enforcement.

Practical Considerations

Perhaps the greatest challenge of a Healthcare-based System is establishing evidence repositories within hospitals that protect the integrity of the evidence and can withstand any potential challenges to the chain of custody. Typically, health-care facilities do not store evidence long term. Strategic planning is required to identify the storage facility and the conditions under which the evidence is to be stored. Development of a Healthcare-based System, and meeting the unique challenges of dedicated evidentiary storage repositories within health-care facilities, is an example of successful problem-solving within a multi-disciplinary setting.
Anonymous / Blind / Jane Doe System

ANONYMOUS / BLIND / JANE DOE SYSTEM

Guiding Principle:

Emphasizes protecting victim anonymity and confidentiality.

Characteristics:

- Victims are offered a forensic medical exam regardless of their decision to report to law enforcement and/or participate with the criminal justice system.
- From a law enforcement perspective, they are not investigating until the victim chooses to make a full report.
- Law enforcement may choose to document the forensic medical examination and the collection of evidence through a police report or an informational report without identifying the victim. This often assists the law enforcement agency in maintaining a record of the evidence stored within their facility.
- Generally, law enforcement transports evidence to a police department for storage.

Overview

A system that engages law enforcement in evidence transportation and evidence storage, yet maintains the anonymity of victims, is often called an Anonymous, Blind, or Jane Doe System. The guiding principle driving this type of policy is shielding the sexual assault victim’s identity from law enforcement until the victim chooses to report, while ensuring that the integrity of the evidence is fully protected in the interim. A blind reporting system provides information about the patterns of behavior of repeat offenders, which can be used to identify assailants or build cases for court, and may help prevent crime by educating the public about high-risk scenarios or locations.

Practically speaking, a victim of sexual assault presenting at a hospital with an Anonymous System may initially experience a response similar to that at a hospital implementing a Healthcare-based model. If available, a Sexual Assault Nurse Examiner (SANE) and an advocate may be called. The victim will be informed of the purpose of the forensic medical examination. The victim generally is informed at this time of her or his options for reporting. If the victim elects not to report the sexual assault to law enforcement, the victim will be advised that the evidence can be collected and stored for a pre-determined period of time. In cases where the victim chooses to have evidence collected but not to report the sexual assault immediately to law enforcement, hospital personnel generally notify law enforcement that evidence has been collected and the sexual assault evidence collection kit is ready to be transported to the evidence storage facility.

In many jurisdictions, “Jane Doe” reporting means that law enforcement knows who the victim is, but the Jane Doe Statutes allow the victim to use a pseudonym so that the public doesn’t know who the victim is. The terminology “Jane Doe” or “John Doe” is also commonly used when the identity of a victim is not known. For purposes of meeting the forensic compliance mandates, many jurisdictions have elected to develop policies or procedures where the victim’s identity is withheld from law enforcement until the victim elects to report the incident.

The length of storage varies greatly throughout the nation. For more information, see Ensuring Access to Examinations—Storage, Transportation and Destruction of Evidence (page 31).
The majority of law enforcement departments working within an Anonymous System, upon arriving at the hospital to retrieve evidence, initiate a record of the evidence in the form of an informational report or a police report specifically created to document anonymous reports. Law enforcement needs some form of report for a variety of reasons, primarily to document the incident, but also to initiate a tracking system for the evidence to be stored within their facility and retrieved when needed.

Practices vary greatly throughout the nation regarding how an anonymous report is documented. There may be a rape or sexual assault report with the victim’s name and identifying information omitted and a notation that the victim did not want to engage the criminal justice system at the time the evidence was collected. Other tools utilized include police reports generated for categories such as “miscellaneous,” “suspicious incident,” and general “assault.” Another option for consideration is an informational report. Police may find this to be a viable alternative, allowing for a report to be filed that can serve as a record-keeping method for the storage of the evidence. Some jurisdictions maintain informational reports for a limited time (generally one year). For those jurisdictions electing to store evidence for a longer period of time, an informational report may not be a viable option. Virginia’s Henrico County Police Department (Exhibit Q), Virginia’s James County Police Department (Exhibit R), and the Maryland State Police/Cecil County (Exhibit S) provide examples of law enforcement policies developed to protect the identity of the victim.

**Practical Considerations**

The Anonymous System provides autonomy to states and/or local jurisdictions to establish systems within law enforcement to respond to sexual assault cases where the victim chooses not to include law enforcement initially. Law enforcement is accustomed to taking custody and storing evidence in cases where the department responded to the incident and interviewed and investigated as appropriate. In an Anonymous System, law enforcement departments are often faced with the prospect of creating a dedicated system to record the retrieval and transport of evidence to the department without an active investigation, and to adequately track custody of that evidence.

Communities will face the challenges of creating avenues for evidence transportation in Anonymous Systems. In instances where law enforcement is not involved in an official response to the crime of sexual assault, the call for services may pull officers from patrolling and responding duties to pick up evidence from the hospital and transport it to the evidence repository. This can be a topic of discussion within planning meetings, as resource allocation may be an issue for departments, regardless of size—urban, suburban or rural. More discussion regarding the challenges associated with evidence transportation can be found in *Ensuring Access to Examinations—Storage, Transportation and Destruction of Evidence* (page 31).
Anonymous Mandatory Reporting System

ANONYMOUS MANDATORY REPORTING SYSTEM

Guiding Principle:

Responds to statutorily defined mandates of health care providers, while maintaining an anonymous system of reporting.

Characteristics:

- Victims are offered a forensic medical exam regardless of their decision to report the assault to law enforcement and/or participate with the criminal justice system.
- From a law enforcement perspective, an assault has taken place, which is generally documented through an alternative manner (such as a supplemental report filed by a health care provider).
- Provides an opportunity for states and territories to have a more accurate picture of prevalence within their jurisdiction.
- Generally, law enforcement transports evidence to a state or local law enforcement department for storage.

Overview

All states have statutorily defined mandatory reporting guidelines for health-care providers. Mandated reporting requirements do not preclude a victim from accessing a forensic medical examination and still allow for victim choices.

Several states broadly define their mandates. Massachusetts, for example, requires health-care providers to report all sexual assaults presenting to health-care facilities. Their statute requires physicians to report not only to the local police department, but also to the Massachusetts Criminal History Systems Board.

Massachusetts’ statute also includes a provision for an anonymous report of the sexual assault, requesting details regarding the location of the sexual assault but not mandating identifying information regarding the victim. With an anonymous reporting tool implemented statewide, Massachusetts gains enhanced data regarding sexual assault throughout the state. Demographic and geographic information is collected and submitted to the state’s statistical analysis center. A report regarding the prevalence of sexual assault within the state is produced annually.

Practical Considerations

Implementing an Anonymous Mandatory Reporting System is contingent upon a clear authority for the reporting mandate through the statute. A broad-based reporting mandate encompassing all sexual assaults is not the norm. Even rarer is a statute protecting the identity of the victim through anonymous reporting. When considering
ensuring forensic medical exams for all sexual assault victims: a toolkit for states & territories

statutory change to support Anonymous Mandatory Reporting, states and territories are encouraged to prioritize victim-centered approaches to ensure that victims’ identities are protected when reports are made as mandated.\(^{137}\)

An Anonymous Mandatory Reporting System requires significant resources to support its implementation. Massachusetts elected to have Sexual Assault Nurse Examiners (SANEs) not only perform sexual assault forensic medical examinations, but also collect basic geographic and demographic information regarding each assault using a supplemental report \(^{138}\) which is more than a traditional sexual assault evidence collection kit typically requires. Massachusetts’ system is based on SANEs being available, which may not be the case in other states or territories.

Evidence-based Prosecution System

**Evidence-based Prosecution System**

**Guiding Principle:**

Proper evidence collection may allow prosecutors to proceed in prosecuting the case with physical evidence only.

**Characteristics:**

- Similar to “Pro-Prosecution” model for Domestic Violence.
- Victims are offered a forensic medical exam regardless of their decision to report the assault to law enforcement and/or participate with the criminal justice system.
- Requires processing of evidence in cases where the victim does not wish to report the assault to law enforcement and/or participate in the criminal justice system.

**Overview**

Adoption of an Evidence-based Prosecution System is generally driven by jurisdictions that believe the safety of a community outweighs the rights of an individual. They believe that the community has a right to know when there has been a sexual assault because the perpetrator could continue to be a threat to others in the community.

This type of system requires the systematic processing of all evidence collected, even in cases where the victim does not wish to report the assault to law enforcement or participate in the criminal justice system. In these cases it has not been established that a crime has occurred and consensual sexual partners have not been ruled out. Prosecutors may only be interested in pursuing cases where there is a CODIS\(^{139}\) “hit” upon processing the evidence. In this case, jurisdictions are strongly encouraged to develop a victim-centered policy on how the victim will be contacted when a “hit” is made.

\(^{137}\) States may wish to refer to the Health Insurance Portability and Accountability Act of 1995 (HIPAA) and its implementing regulations (found at 45 CFR Parts 160 and 164), providing national standards for the protection of certain individually identifiable health information created or held by health care providers and others. Interpretation of the laws depends on individual situations and the laws of the particular state. See Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, Regulation Text (Unofficial Version), available from [www.hhs.gov/ocr/combinedregtext.pdf](http://www.hhs.gov/ocr/combinedregtext.pdf)

\(^{138}\) Massachusetts’ SANE Pager/Beeper Log monitors requests for all SANE program services and includes the code or name of the facility to which the SANE responded. A copy of the SANE Pager/Beeper Log is available from [http://www.jrsa.org/dvsr-drc/massachusetts/index.shtml](http://www.jrsa.org/dvsr-drc/massachusetts/index.shtml)

\(^{139}\) CODIS is a computer software program that operates local, State, and national databases of DNA profiles from convicted offenders, unsolved crime scene evidence, and missing persons. Every State in the Nation has a statutory provision for the establishment of a DNA database that allows for the collection of DNA profiles from offenders convicted of particular crimes. CODIS software enables State, local, and national law enforcement crime laboratories to compare DNA profiles electronically, thereby linking serial crimes to each other and identifying suspects by matching DNA profiles from crime scenes with profiles from convicted offenders. For further information about CODIS, see President’s DNA Initiative, Advancing Justice through DNA Technology, [http://www.dna.gov/uses/solving-crimes/cold_cases/howdatabasesaid/codis/](http://www.dna.gov/uses/solving-crimes/cold_cases/howdatabasesaid/codis/)
Practical Considerations

From a practical standpoint, the processing of all evidence, including that from cases where the victim does not wish to initially report, may be controversial. Crime labs throughout the nation have a backlog, and requiring them to process evidence in cases where the victim does not wish to proceed initially, and that perhaps may never be prosecuted, may overload the system. The cost of processing the evidence may also have relevance for jurisdictions considering an Evidence-based Prosecution System.

A strong victim-centered policy is encouraged when considering the processing of all evidence, particularly when the evidence may be used to proceed with an investigation and prosecution. Victims should be notified in the informed consent form provided to them for review and signature prior to the collection of evidence. All information for victims of sexual assault should be available in multiple formats to meet the needs of individuals who speak languages other than English, have low literacy levels, or have cognitive or physical disabilities. It could clearly impact a victim’s decision to receive an examination if there is concern evidence will be processed regardless of the victim’s desire to participate with the criminal justice system.

Assuming a jurisdiction has overcome the backlog and kit processing issues, it must then consider what policies and procedures will be adopted to address the occurrence of a “hit,” a lead to the perpetrator, for a case in which the victim did not wish to report. Who would contact the victim? How would law enforcement know how to contact the victim? Would the contact be a trigger for the victim, reminding the victim of the assault? Would supportive services be provided to the victim during this process? What if the victim does not wish to proceed with the investigation and prosecution, despite the “hit”? How would prosecution address a consent-based defense without victim testimony? Would the victim be compelled to testify?

ESTABLISHING PROTOCOLS

Overview

As discussed in Steps Towards Establishing a Compliant System—Working Toward a Compliant System (page 14), each state and territory is charged with assessing the status of its jurisdictions’ current policies and procedures regarding forensic medical exams for victims presenting within the health-care setting or presenting to other points within the system. Bringing these policies and procedures into compliance with VAWA 2005 can be achieved through a variety of methods, including statutory changes, statewide policy development, or statewide guidelines for adaptation by local jurisdictions. Regardless of the method, a uniform and consistent response supporting a victim-centered standard of care is strongly encouraged.

As part of the planning process, stakeholders must consider the mechanism for establishing policies and procedures throughout their state or territory. For some, crafting new legislation will be the desired approach, as that may historically have been the vehicle for effectuating policy change within the state. This is a strategy often used to drive law
enforcement policy, providing recommendations for local jurisdictions to adopt. Another option for jurisdictions is to craft statewide guidelines, providing significant direction while affording local jurisdictions the autonomy to customize logistical details.

**Victim-centered Multi-disciplinary Perspective**

States and territories are strongly encouraged to conduct statewide planning in a multi-disciplinary, victim-centered manner. A multi-disciplinary approach ensures planning is conducted with—at a minimum—all core disciplines (law enforcement, prosecutors, health care and advocacy) represented. Committing to a victim-centered approach to policy development signifies that the guiding principle for the planning entity is to ensure the needs of the sexual assault victim are prioritized.

As planning bodies convene, issues are discussed and policy developed, it is imperative to always consider how the practical application of policies will impact victims as they move through the system. Policies developed to address the needs of sexual assault victims who choose not to report the assault to law enforcement immediately benefit from a comprehensive perspective that addresses both the system’s immediate response to the victim as well as the system’s later response, if and when the victim chooses to report to law enforcement. One way to ensure the victim’s perspective is represented is to include survivors in the planning process.

**Process**

One of the first steps in the planning process is to determine what, if any, policies and protocols will be developed and/or directed on the state level, and what issues will be deferred to local communities and/or Sexual Assault Response Teams (SARTs) for development. If change will be implemented through the creation or modification of state statute, or statewide policy developed, the objective is to create the policy with the goal of uniform and consistent adaptation throughout.

A jurisdiction choosing to develop model policies or guidelines to be adapted by various localities will need to determine the mechanism by which information will be communicated and disseminated throughout the state. Additionally, states and territories may want to identify a central contact person to provide technical assistance to the various localities as they work to apply the guidelines provided by the state within their local jurisdictions.

States and territories are strongly encouraged to develop a system to monitor local jurisdictions throughout the state on the implementation of policies to ensure victims are provided access to forensic medical examinations without requiring victims to report the assault to law enforcement and/or participate in the criminal justice system. The responsibility of certifying that victims throughout the state are able to access forensic medical examinations falls upon the administrative agency within each state and territory designated to administer the STOP Violence Against Women Act funding.\(^{140}\)

Outputs

Statutory Changes

Several states have chosen to bring about change to ensure that victims of sexual assault are provided access to forensic medical examinations through statutory initiatives. This may be accomplished through modification of an existing statute, often directly linked to the reimbursement and/or payment process for the examinations. Florida, for example, viewed the VAWA 2005 certification issues as an opportunity to craft omnibus legislation regarding the provision and payment of sexual assault forensic examinations.\footnote{Florida House of Representatives, 2007 legislature, HB 989, attached as Exhibit T.}

States and territories should, however, be cautioned that statutory changes require comprehensive strategies for communicating them throughout the state. For instance, statutory changes may require policy direction to articulate practical application for stakeholders throughout the state. States often begin work toward statewide policy development once statutory changes have been implemented. Florida is an example of such an initiative.\footnote{In Florida, Guidelines for Forensic Examinations for Sexual Assault Victims Not Reporting to Law Enforcement were developed by a statewide group comprised of prosecutors, law enforcement professionals, victim advocates, forensic examination and medical providers, and crime lab professionals convened by the Florida Council Against Sexual Violence (see Exhibit U).}

The Florida Council Against Sexual Violence convened a statewide workgroup comprised of prosecutors, law enforcement professionals, victim advocates, forensic examination and medical providers, and crime lab professionals convened by the Florida Council Against Sexual Violence (see Exhibit U). As a result, this State enacted comprehensive legislation regarding VAWA certification and corresponding protocols. Florida’s statute is attached as Exhibit T, and the Guidelines for Forensic Examinations for Sexual Assault Victims Not Reporting to Law Enforcement developed by the Florida Council Against Sexual Violence’s workgroup are attached as Exhibit U.

Statewide Protocols

States and territories may choose to develop statewide protocols directing standard operating procedures for agencies responding to sexual assault victims. This is often found in jurisdictions where there are collaborative entities addressing the issue of sexual assault statewide. New Hampshire is an example of a statewide approach to responding to sexual assault victims through the development of a statewide protocol.\footnote{State of New Hampshire, Office of the Attorney General. 2008. Sexual assault: an acute care protocol for medical/forensic evaluation. Fifth edition, 2008.} There are several benefits to statewide policy development, including the establishment of a consistent standard of care for victims of sexual assault. Additionally, a consistent, uniform response protocol may be more amenable to oversight and monitoring by the STOP Administrative Agency.

Statewide Guidelines / Local Implementation

States may choose to develop protocols for local jurisdictions to adopt and adapt to suit their specific local needs. Policies and procedures to ensure victims access to forensic medical examinations may be incorporated into statewide SART protocols, for example, or perhaps a statewide recommended policy that jurisdictions may easily adapt to local practices. Oregon is an example of a state establishing the expectation that local jurisdictions develop anonymous systems for victims who choose not to report the sexual
assault immediately. Additionally, Oregon created recommended law enforcement and medical facility policies for local jurisdictions to consider. The model policies remain available on the website of Oregon’s Attorney General’s Sexual Assault Task Force, and are provided in their entirety as Exhibit V. Jurisdictions may wish to consider implementing a process for monitoring the effectiveness of the system, both to ensure the successful implementation of new policies and procedures and to maintain the integrity of the system established Steps Towards Establishing a Compliant System—Working Toward a Compliant System (page 14).

Other states, such as Wyoming, have developed a model law enforcement policy providing direction to law enforcement entities throughout the state while maintaining control and providing direction of certain elements within the policy. Wyoming has established several significant elements within its model policy:

- Stored evidence will be picked up by law enforcement and transported to its respective local agency for storage.
- Evidence will be stored for a period of eighteen months.
- Local law enforcement entities have the authority to dispose of the evidence upon expiration of the eighteen-month storage period.

Wyoming’s concise policy, attached as Exhibit X, was vetted through the Wyoming Chiefs and Sheriffs Association for endorsement. Using a multi-tiered approval process, the Chiefs and Sheriffs Association, the Wyoming Division of Victim Services, and the Wyoming Coalition Against Domestic Violence and Sexual Assault are developing a consistent communication and marketing strategy for dissemination of the policy, while providing an opportunity for the state to provide technical assistance to local law enforcement departments as they work to develop interagency policies and procedures among health care facilities, law enforcement, prosecutors, and advocates. This type of policy development is commonly referred to as a hybrid model, as policies may vary within jurisdictions throughout the state.

In order to develop victim-centered policies and procedures, the process should follow a multi-disciplinary approach and should include, at minimum, representatives from health care, advocacy, law enforcement and prosecution, and when appropriate, the voices of survivors. In addition, it is important that states and jurisdictions incorporate into the planning process methods for the monitoring of victim access to forensic medical exams throughout the state in order to document compliance and identify opportunities for improvement.

144 State of Oregon, SANE—OSP, Anonymous Sexual Assault Reporting Program, Jackson County, September 2007 (Draft), attached as Exhibit W.
145 Oregon Attorney General’s Sexual Assault Task Force. 2007, July. Recommended medical facility policy for implementation of HB 2154 and Recommended law enforcement policy for implementation of HB 2154.
PAYMENT FOR FORENSIC MEDICAL EXAMINATIONS

Ensuring Victims Are Not Responsible for Payments

Regulation

U.S. Code Annotated
Title 42—The Public Health and Welfare
Chapter 46—Justice System Improvement
Subchapter XII-H—Grants to Combat Violent Crimes Against Women

42 U.S.C.A. § 3796gg-4

Rape exam payments

(b) Medical costs

A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity—

1. provides such exams free of charge to the victim;
2. arranges for victims to receive such exams free of charge to the victims; or
3. reimburses victims for the charge of such exams if—
   A. the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;
   B. the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;
   C. the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim’s expense; and
   D. The State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.
Considerations:

- Examine current payment or reimbursement funding streams and procedures. Remove restrictions requiring victims’ cooperation with law enforcement.
- If using victims’ private insurance as payers, ensure co-pays and deductibles are covered.
- Explore pros and cons of a flat rate reimbursement fee for health-care providers.
- Consider broadening reimbursement policies to include fees for services such as transportation fees, follow-up visits, etc.
- Consider streamlining the reimbursement process for health-care providers.
- Explore creative funding strategies.
- Explore strategies for communicating revised policies and procedures to stakeholders throughout the state.

Payment and Reimbursement Procedures

VAWA 2005 includes a requirement specific to the payment, or reimbursement, for sexual assault forensic medical examinations for all victims of sexual assault. The full cost for performing a forensic medical examination is to be covered. The forensic medical examination has been defined as an “…examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law.” The forensic medical examination “…should include, at a minimum:

1. examination of physical trauma;
2. determination of penetration or force;
3. patient interview; and
4. collection and evaluation of evidence.”

The statute speaks only to the forensic medical examination itself and does not address the fees for services rendered in treating injuries resulting from the sexual assault. Some states, however, voluntarily cover the cost of all medical services provided as a result of the sexual assault.

Prior to VAWA 2005, states were required to pay for sexual assault forensic medical examinations or ensure victims were provided reimbursement for the exams. States had the discretion to make such payment or reimbursement contingent upon a victim’s cooperation with law enforcement. In instances where direct reimbursement was provided to the health-care facility providing the examination, it was common for states to require confirmation of the victim’s interaction with the criminal justice system, included among the administrative forms submitted with the reimbursement request. In Maryland, for instance, a “…police central complaint number or a similar police case identifier” was required for the reimbursement to be processed. This requirement, articulated within the regulations governing the administrative agency charged with processing the reimbursements, was incorporated as a part of the reimbursement form.

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149 Ibid.
151 Code of Maryland Regulations 10.12.02.05.
152 Ibid.
With the enactment of VAWA 2005, access to sexual assault forensic medical examinations has been extended to victims regardless of whether they report to law enforcement and/or participate in the criminal justice system, including payment for the exam. States now must provide a forensic medical examination free of charge or with full reimbursement to all victims regardless of whether the victim reports the sexual assault to law enforcement. In light of this change, a thorough review of the reimbursement process, including any governing statute, current procedures, and forms, should be conducted to ensure there are no obstacles blocking the provision of a forensic medical examination, including payment or reimbursement to victims.

### Funding Streams for Forensic Medical Examinations

States and territories utilize a variety of funding sources to pay for, or reimburse victims for, the cost of the sexual assault forensic medical examination (Exhibit Y). Results from a nationwide survey administered in early 2008 indicated more than half of states and territories use Victims of Crime Act (VOCA) Criminal Injuries Compensation funding. Sixteen percent (16%) of the nation uses state funds as a primary payment source, with an additional sixteen percent (16%) using local funds. Seven percent (7%) of the nation defers to local law enforcement to cover the costs of the sexual assault forensic medical examinations. Each of these funding streams presents opportunities and challenges to states and local jurisdictions.

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154 See VAWA Forensic Compliance Project Survey Results: SAFE Payment Procedures, attached as Exhibit Y.
156 The Crime Victims Fund (the Fund), established by the Victims of Crime Act of 1984 (VOCA), is a major funding source for victim services throughout the Nation.
VICTIMS OF CRIME ACT CRIME VICTIMS FUND

The Crime Victims Fund (the Fund), established by the Victims of Crime Act of 1984 (VOCA), is a major funding source for victim services throughout the Nation. Millions of dollars have been deposited into the Fund annually from criminal fines, forfeited bail bonds, penalties, and special assessments collected by U.S. Attorneys’ Offices, federal U.S. courts, and the Federal Bureau of Prisons.

Funding from the VOCA program funds several programs, including child abuse programs, the Federal Criminal Justice System, and the Antiterrorism Emergency Reserve. The remaining fund deposits are divided between the Victims of Crime Assistance Program and the Victims of Crime Compensation Fund, also known as the Criminal Injuries Fund. To date, Fund dollars have always come from offenders convicted of federal crimes, not from taxpayers.

All 50 states, the District of Columbia, and several U.S. territories receive VOCA assistance and compensation grants. A state is eligible for a VOCA compensation grant if it meets the criteria set forth in VOCA and OVC program rules. The amount of VOCA compensation grant funding a state receives is based on a percentage of the payments to crime victims from state funding sources in the previous year.\textsuperscript{157}

Criminal Injuries Compensation Boards paid over 22 million dollars in 2007 to cover costs associated with sexual assault forensic medical examinations.\textsuperscript{158} The National Association of Crime Victims Compensation Boards (NACVCB) confirms that 26 states indicate Criminal Injuries Compensation is their primary funding source for the costs associated with forensic medical exams.\textsuperscript{159} The number of states looking to Criminal Injuries Compensation as their primary source to fund the costs associated with performing the examination has steadily climbed over the past two years, from 15 in 2006\textsuperscript{160} to 26 in 2008, a 43% increase. The NACVCB recognizes this trend, and attributes the increase to the fact that with VAWA 2005, states and territories must fund the cost of additional forensic medical examinations for those individuals who choose not to report the crime initially.

Guidelines for the Criminal Injuries Compensation Program stipulate that victims are to cooperate with law enforcement as a requirement for eligibility.\textsuperscript{161} The program eligibility requirements, however, provide several caveats in addressing the cooperation requirement. One exception to the cooperation requirement presented within the guidelines is for states to consider accepting “…proof of the completion of a medical

\textsuperscript{157} U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime. 2005, October. OVC fact sheet—Victims of crime act crime victims fund.

\textsuperscript{158} Victims of violent crime and their families received benefits totaling $453 million from state-administered crime victims compensation boards in federal fiscal year 2007, including $22.9 million for forensic sexual assault exams. Retrieved November 24, 2008, from the National Association of Crime Victims Compensation Boards web site home page, \url{http://www.nacvcb.org}.


\textsuperscript{160} U.S. Department of Justice, Office on Violence Against Women. Frequently asked questions on STOP formula grants: 25. Updated November 21, 2007.

The examinations are performed by specially-trained examiners for victims of sexual assault, such as Sexual Assault Nurse Examiners (SANEs) or Sexual Assault Medical Forensic Examiners (SAFEs); and

2. The jurisdiction does not require victims of sexual assault to seek reimbursement from their insurance carriers.170

However, although VAWA 2005 requires forensic medical examinations to be conducted by trained examiners if states use STOP formula grants as a funding source, it does not specify the type of training to be used. Some specially-trained examiners...
for victims of sexual assault are known as Sexual Assault Forensic Examiners (SAFEs). According to the National Training Standards for Sexual Assault Medical Forensic Examiners, some communities refer to SAFEs by different terms/acronyms based on the discipline of the practitioners and/or specialized education and clinical experience. Sexual Assault Nurse Examiners (SANEs) are registered nurses and advanced practice nurses (can include nurse practitioners and nurse midwives) who receive specialized education and fulfill clinical requirements to perform these exams. Some nurses have been certified to perform adolescent and adult exams (referred to as SANE-Adult and Adolescent or SANE-A) through the International Association of Forensic Nurses (IAFN). Others are specially educated and fulfill clinical requirements as forensic nurse examiners (FNEs), enabling them to collect forensic evidence for a variety of crimes. SAFEs and sexual assault examiners (SAEs) are often used broadly to denote health care providers (e.g., physicians, physician assistants, nurses, nurse practitioners, or midwives) who are specially educated and clinically prepared to perform this examination. A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents, further describes a forensic medical examiner as one who is:

...committed to providing compassionate and quality health care, collecting evidence in a thorough and appropriate manner, and testifying in court if needed. Their commitment should be grounded both in an understanding that sexual assault is a serious crime that can have profound, negative effects on those victimized and in recognition of the role of advanced education and clinical experience in building competency to perform the exam.

While educational programs offered to train professionals on the collection of forensic evidence vary throughout the nation, there are national training standards for sexual assault forensic medical examiners that are based on the National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents. The goal is that every person who reports or discloses a recent sexual assault will have access to a specially educated and clinically prepared SAFE who can validate and address their health concerns, minimize their trauma, promote their healing, and maximize the detection, collection, preservation, and documentation of physical evidence related to the assault for potential use by the legal system. Uniformity in SAFE training can aid in evaluating the effectiveness of examiner response. In addition, the use of these standards is meant to support a coordinated community response to sexual assault and promote responses that recognize and address the unique needs and circumstances of each patient.

States and territories are encouraged to implement the SAFE and SANE protocols discussed above. While many have done so, others have developed their own systems. The State of New York encourages its sexual assault forensic examiners to be certified as SANE-A (Sexual Assault Nurse Examiner, Adult/Adolescent) and to complete 15 hours of continuing education every three years to be recertified. Pima County Arizona requires SANE training, but has no state certification process for sexual assault forensic examiners. California, on the other hand, has its own training curricula. Wyoming’s innovative approach to statewide training is discussed in the section on the Wyoming
Creative Funding Strategies

Private Partnerships

In North Dakota, the Department of Health’s Division of Injury Prevention and Control, teaming with the Office of the Attorney General and the North Dakota Council on Abused Women’s Services/Coalition Against Sexual Assault in North Dakota, convened a Stakeholders Group to discuss the need for additional funds to support the reimbursement of fees for the provision of sexual assault forensic medical examinations. The Stakeholders Group included representatives from the core agencies named above as well as Blue Cross/Blue Shield (BC/BS), the North Dakota Medical Association, the North Dakota Hospital Association, local hospital billing staff, a SANE representative, victim advocates, and the director of the VOCA program.

The group discussed the intent of the proposed senate bill, the current status of forensic medical exams in North Dakota, the definition for “forensic medical examination,” potential coverage for adults and children, the Crime Victims Compensation Fund, which procedures would be covered by the state funds, and sustainability at the end of the 2007–2009 biennium.

The Stakeholders Group resolved the issues and, with the leadership of BC/BS, also created a new funding stream proposing the use of funds from the Insurance Regulatory Trust Fund in the state treasury to pay for the costs associated with performing sexual assault forensic medical examinations. The Insurance Regulatory Trust Fund is a fund to which all insurance companies within North Dakota are contributors. With the private partners at the planning table, this unique approach to funding forensic medical exams became a reality.

Other Considerations

Regardless of the source of funding, when reimbursement is provided directly to the victim, VAWA 2005 requires states and territories to allow victims to seek reimbursement for one year following the date the examination was performed. Reimbursement must be made within ninety (90) days of receipt of the victim’s claim.

As stated in Ensuring Access to Exams—Initial Response (page 23), all materials provided to victims of sexual assault should be provided in a variety of formats to meet the needs of individuals who speak languages other than English, have low literacy levels, or have cognitive or physical disabilities, as required by VAWA. Ideally, victims should be informed of reimbursement procedures both verbally and in writing. Written materials regarding the reimbursement procedures should be available to victims in a variety of languages, taking into consideration the demographics of the community.

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177 The North Dakota Insurance Department is a state regulatory agency headed by the Insurance Commissioner. All fees and fines paid by companies or agents are deposited into the Insurance Regulatory Trust Fund, from which the money to operate the Department is appropriated by the Legislature. See https://www.state.nd.us/ndins/department-information/details.asp?ID=63&printable=1
ACKNOWLEDGMENTS

This Toolkit was produced by the VAWA Forensic Compliance Project through a cooperative agreement between the U.S. Department of Justice Office on Violence Against Women and the Maryland Coalition Against Sexual Assault (MCASA). The Toolkit is the product of a multi-disciplinary effort involving a National Working Group comprised of STOP Administrators and various other professionals with a collective wealth of knowledge and experience in administering grant programs and working with victims of sexual assault through advocacy, health care, law enforcement, and the courts. Special appreciation goes to Debra Bright, primary researcher and writer for the Toolkit. The states of North Dakota, Virginia and Wyoming served as pilot sites, and in sharing their journey toward compliance helped to map the process for others. State STOP Administrators, coalition directors, and directors of dual coalitions participated in the VAWA Forensic Compliance Project National Survey, furnishing information on victim services and systems throughout the country. These and many other professionals, associations, and organizations throughout the United States have provided ideas, information, expertise and insight that have been incorporated into this Toolkit. With these tools at hand, states and territories may build and sustain VAWA 2005 compliant systems that strengthen victim services and offer a victim-centered standard of care based on the most promising practices of service delivery.
REFERENCES


Code of Maryland Regulations 10.12.02.05, Title 10—Department of Health and Mental Hygiene, Subtitle 12—Adult Health, Chapter 2—Rape and Sexual Offenses—Physician and Hospital Charges, Regulation 05—Reimbursements. Available from http://www.dsd.state.md.us/comar/10/10.12.02.05.htm


Florida Council Against Sexual Violence. Guidelines for forensic examinations for sexual assault victims not reporting to law enforcement.

Florida House of Representatives. 2007 legislature. HB 989.


New York State Department of Health. Protocol for the acute care of the adult patient reporting sexual assault, Appendix H—10 NYCRR 405.9 (c) and 405.19; Establishment of hospital protocols and maintenance of sexual evidence. Available from http://www.health.state.ny.us/professionals/protocols_and_guidelines/sexual_assault/


Scalzo, T.P. Rape and sexual assault reporting laws. American Prosecutors Research Institute National Center for Prosecution of Violence Against Women: The Voice 1 (3).


Wyoming Hospital Survey summary. VAWA Forensic Compliance Project statewide survey of Wyoming health care providers conducted July–August 2008. 75% response rate.

## LIST OF EXHIBITS

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<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
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</tr>
<tr>
<td>B</td>
<td>VAWA Forensic Compliance Project National Survey—Survey Tool</td>
</tr>
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<td>C</td>
<td>VAWA Implementation Planning Committee—Checklist of Agencies for States to Consider for Inclusion</td>
</tr>
<tr>
<td>D</td>
<td>Compliance Overview (PowerPoint Presentation)</td>
</tr>
<tr>
<td>E</td>
<td>North Dakota Hospital Survey Summary</td>
</tr>
<tr>
<td>F</td>
<td>Underreporting of Sexual Assault (Statistics)</td>
</tr>
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<td>G</td>
<td>VAWA Survey Results—First Responders to Victims</td>
</tr>
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<td>H</td>
<td>VAWA Survey Results—Who Communicates Options to Victims</td>
</tr>
<tr>
<td>I</td>
<td>Utah’s Informed Consent for Sexual Assault Evidence Collection (form)</td>
</tr>
<tr>
<td>K</td>
<td>Albuquerque, New Mexico draft informed consent form for evidence collected from SANE exams for non-reported sexual assaults</td>
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<td>L</td>
<td>Informed Consent—from the National Protocol for Sexual Assault Medical Forensic Examinations</td>
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<tr>
<td>M</td>
<td>VAWA Survey Results—Storage Location for Evidence Collected through “Anonymous” Kits</td>
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<td>N</td>
<td>VAWA Survey Results—Transportation Methods Utilized by States/Territories to Transfer “Anonymous” Kits to Storage Facility</td>
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<td>O</td>
<td>VAWA Survey Results—Length of Storage for Evidence Collected through “Anonymous” Kits</td>
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<tr>
<td>P</td>
<td>VAWA Survey Results—Mechanism Used to Track “Anonymous” Kits</td>
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<td>Q</td>
<td>Henrico County, Virginia, Law Enforcement Policy: Property Procedures (Draft)</td>
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<td>S</td>
<td>Maryland State Police/Cecil County Law Enforcement Policy: Processing Hospital Calls Reporting “Jane Doe” Victims of Sexual Assaults and Transportation and Storage of Evidence Related to Such Incidents</td>
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<td>T</td>
<td>Florida’s Statute (Florida HB 989, 2007 legislature)</td>
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<td>U</td>
<td>Florida Council Against Sexual Violence: Guidelines for Forensic Examinations for Sexual Assault Victims not Reporting to Law Enforcement</td>
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<td>V1</td>
<td>Oregon’s Recommended Law Enforcement Policy</td>
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<td>Oregon’s Recommended Medical Facility Policy</td>
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<tr>
<td>W</td>
<td>Oregon’s SANE–OSP Anonymous Sexual Assault Reporting Program, Jackson County, September 2007 (Draft)</td>
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<tr>
<td>X</td>
<td>Wyoming Association of Sheriffs and Chiefs of Police policy on forensic medical exams for sexual assault victims not reporting to law enforcement</td>
</tr>
<tr>
<td>Y</td>
<td>VAWA Survey Results: SAFE Payment Procedures (funding sources used to pay for forensic medical examinations)</td>
</tr>
</tbody>
</table>
LIST OF APPENDICES

1 - Statute 42 U.S.C.A. 3796gg et seq.

2 - Certification of Compliance with VAWA 2005

3 - APRI—Reporting Requirements for Competent Adult Victims of Domestic Violence

4 - APRI—Rape and Sexual Assault Reporting Laws (*Voice*)

5 - Reporting Methods for Sexual Assault Cases (J. Archambault and K. Lonsway)

6 - VAWA Forensic Compliance Survey Results (PowerPoint)
# VAWA Forensic Compliance Project

## NATIONAL WORKING GROUP

<table>
<thead>
<tr>
<th>Name</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joanne Archambault</td>
<td>End Violence Against Women International (EVAW)</td>
</tr>
<tr>
<td>Debi Cain</td>
<td>State STOP Administrator, Michigan Domestic Violence Prevention and Treatment Board</td>
</tr>
<tr>
<td>Kim Day</td>
<td>International Association of Forensic Nurses (IAFN)</td>
</tr>
<tr>
<td>Nicolette Gantt</td>
<td>State STOP Administrator</td>
</tr>
<tr>
<td>Monika Johnson Hostler</td>
<td>National Alliance to End Sexual Violence (NAESV)</td>
</tr>
<tr>
<td>Lisae C. Jordan, Esq.</td>
<td>MCASA Legislative Counsel/Sexual Assault Legal Institute Director</td>
</tr>
<tr>
<td>Ilse Knecht</td>
<td>National Center for Victims (NCVC)</td>
</tr>
<tr>
<td>Sally Laskey</td>
<td>National Sexual Violence Resource Center (NSVRC)</td>
</tr>
<tr>
<td>Jennifer Long</td>
<td>American Prosecutors Research Institute</td>
</tr>
<tr>
<td>Jessica Mindlin</td>
<td>Victim Rights Law Center (VRLC)</td>
</tr>
<tr>
<td>Jennifer Pollitt-Hill</td>
<td>Maryland Coalition Against Sexual Assault (MCASA), Executive Director</td>
</tr>
<tr>
<td>Detective Sergeant Ronald “Keith” Reid</td>
<td>Metropolitan Police Department, Washington, D.C. Sexual Assault Unit</td>
</tr>
<tr>
<td>Jacqui Callari Robinson</td>
<td>WCASA SANE Program Consultant</td>
</tr>
<tr>
<td>Melissa Schmisek</td>
<td>Office of Violence Against Women, Grant Program Specialist</td>
</tr>
<tr>
<td>Dave Thomas</td>
<td>Domestic Violence Education Program, Johns Hopkins University, School of Professional Studies in Business and Education</td>
</tr>
</tbody>
</table>
1. STATE CONTACT INFORMATION

Please provide the name of your State or Territory*. Any other contact information you provide would be appreciated, but certainly not necessary.

* Agency:

Today's Date: [ ]

STATE/Territory: [ ]

Please indicate what position you hold.

[ ] Law Enforcement
[ ] Prosecutor
[ ] SANE
[ ] Other health care provider
[ ] Private Non-profit service provider
[ ] Public/Gov't Service Provider
[ ] Other

Do you work in a specialized sexual assault unit and/or do you work exclusively with sexual assault victims?

[ ] Yes
[ ] No

Are you a participant on a local Sexual Assault Response Team?

[ ] Yes
[ ] No

Your Contact Information (optional):

Your Name: [ ]

Your Email: [ ]

Your Phone: [ ]

Add to MCASA's VAWA Forensic Compliance listserv (Yes or No): [ ]
2. STATEWIDE SYSTEMS: COLLECTION OF FORENSIC EVIDENCE

The following questions pertain to State and/or local responses to the forensic compliance mandates contained within the 2005 Reauthorization of VAWA. There are two prongs to the VAWA Forensic Compliance mandates: 1) Requires that all victims of sexual assault are afforded a forensic sexual assault examination without requiring the victim to cooperate with local law enforcement and/or participate in the criminal justice system; and 2) Requires that victims are not charged for the cost of the forensic sexual assault examination. The deadline for States and Territories to be in compliance with these mandates is January 5, 2009. The majority of States and Territories are not fully in compliance at this time, but are actively engaged in problem-solving activities to develop legislation and/or protocols to address these issues prior to the deadline.

The first set of questions pertains to the protocols related to the facilitation of exams and evidence collection procedures for victims of sexual assault. Please respond, checking all that apply currently or will be implemented within your state in 2008.

Who is [typically] the "first responder" to victims of sexual assault in your State or Territory? Or, in jurisdictions where there is a SAFE/SART comprehensive response, who activates the team response?

- [ ] Sexual Assault Nurse Examiner
- [ ] ER doctor
- [ ] Other medical personnel
- [ ] Victim Advocate
- [ ] Law Enforcement
- [ ] Unknown
- [ ] Varies
- [ ] Other

Varies or Other (please specify):

What process are you currently using to track "rape kits" through the system after the evidence is collected?

- [ ] Hospitals' Private ID#
- [ ] Medical#
- [ ] Kit Serial/Tracking#
- [ ] Nurse Examiner's ID#
- [ ] SAFE Kit#
- [ ] Personal Identifying Info
- [ ] Varies
- [ ] Other
- [ ] Unknown
- [ ] None

Varies or Other (please specify):

Who [typically] completes the narrative portion of the exam?

- [ ] SANE/FNE
- [ ] Physician
- [ ] Law Enforcement
- [ ] Varies
- [ ] Other
- [ ] Unknown

Varies or Other (please specify):
Where is the evidence stored?

- [ ] Crime Lab
- [ ] Hospital
- [x] Unknown
- [ ] FBI
- [ ] State Law Enforcement
- [x] Unknown
- [ ] Local Law Enforcement
- [ ] Other

Varies or Other (please specify)

Who is responsible for transporting the evidence to the storage location?

- [ ] Crime Lab
- [ ] State Law Enforcement
- [x] Unknown
- [ ] FBI
- [ ] Hospital via Courier
- [x] Other

Varies or Other (please specify)

For "anonymous" cases, is Evidence processed through the federal Combined DNA Index System (CODIS)?

- [x] Yes
- [ ] No
- [ ] Varies
- [ ] At Discretion of Prosecutor
- [ ] Unknown

Varies (please specify):

Please use this space to describe any barriers that you recognize for your State, Territory and/or Tribal Governments to ensuring that all sexual assault Victims are provided a no-cost Forensic Exam:
3. SAFE EXAM & STORAGE TIME LIMITATIONS

This section of questions related to the time limitations for the Forensic Examination itself and/or for the Storage of Evidence.

How long after the assault will your State or Territory collect evidence from victims?

☐ Less than 48 hours
☐ 48 hrs
☐ 72 hrs
☐ 96 hrs
☐ 5 days or more
☐ Unknown

Other or Varies (please specify)

How long will your State or Territory retain the evidence collected after the examination?

☐ Less than 30 days
☐ 30 days
☐ 60 days
☐ 90 days
☐ 6 months
☐ 9 months
☐ 1 year or more
☐ Statute of Limitations
☐ Unknown

Other or Varies (please specify)
4. COMMUNICATIONS & DATA COLLECTION

This section pertains to the process for communicating the reporting "options" to victims of sexual assault, as well as information regarding the tracking of "Anonymous" kits.

Who communicates the Options available to the Victim when they present for a forensic sexual assault examination?

☐ Hospital  ☐ Law Enforcement  ☐ Other
☐ SANE  ☐ Unknown
☐ Notice with Kit
☐ Victim Advocate

Describe how the Evidence Collection system and Victim's Options are communicated to Victim:

Does your State or Territory track/monitor the "anonymous" cases and record what percent of Victims:

decide to Report to Law Enforcement & participate in system? who Report & Participate, successfully prosecute their case?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Other variables that are currently tracked or you would like to see tracked for future data collection initiatives (please specify):

What are the current payment procedures for sexual assault forensic examinations in your State or Territory? (check all responsible parties):

☐ At this time, paid only if Victim Reported to LE  ☐ State funded
☐ Local Law Enforcement  ☐ SANE files directly for reimbursement
☐ Victims Compensation Fund  ☐ Bill Insurance co.
☐ Other Agency funds  ☐ All insurance cos. contribute into Fund
☐ Attorney Generals Office  ☐ Victim does not pay for any forensic exams
☐ Unknown

Describe Payment Procedures:

Any Additional Information that You would like to communicate:
Please provide any web links to electronic files of the above documents (legislation or protocols available online):

| Document (1): |  |
| Document (2): |  |
| Document (3): |  |
| Document (4): |  |
| Document (5): |  |
VAWA FORENSIC COMPLIANCE
IMPLEMENTATION PLANNING COMMITTEE

CHECKLIST
AGENCIES TO CONSIDER INCLUDING IN THE PLANNING COMMITTEE

☐ STOP Administrator
☐ Sexual Assault or Sexual Assault/Domestic Violence Coalition
☐ Law enforcement (chiefs of police, sheriffs associations)
☐ Forensic nurses
☐ Prosecution
☐ Members of statewide sexual assault task force and/or Sexual Assault Response Team (SART)
☐ Area hospital association
☐ State health department
☐ Other medical providers
☐
☐
☐
Violence Against Women Act

Forensic Compliance Issues
“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.”
Why the Change?

- Up to 84% of all sexual assaults go unreported – increasing reporting increases victims’ access to health care
- Forensic evidence collection is time-sensitive
- Acute emotional trauma inhibits the victim’s decision-making capacity
Deadline

- January 5, 2009

- States must be able to certify, in good faith, that they are in compliance with the statutory eligibility requirements within VAWA

- A breakdown in system could jeopardize VAWA STOP funds
Models of Compliance

- Evidence Collection Option
- Anonymous / “Jane Doe” Reporting
- Anonymous Mandatory Reporting
- Evidence-Based Prosecution Option
- The Military Model: Restricted and Unrestricted Reporting
Evidence Collection Option

Guiding Principle

- Emphasis on healthcare and evidence collection, and not on reporting to law enforcement

Characteristics

- Victims are offered a SAFE Exam (Sexual Assault Forensic Examination) regardless of their decision to cooperate or participate with justice system
- From a law enforcement perspective, no crime has taken place unless and until victim elects to report at a later date
- Hospital stores kit, in some cases
Evidence Collection Option: New York

Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

- 1-a. maintaining sexual offense evidence and the Chain of Custody as provided in subdivision two of this section.

- 1-b. contacting a rape crisis or victim assistance organization, if any, providing victim assistance to the geographic area served by that hospital to establish the coordination of non-medical services to sexual offense victims who request such coordination and services.

Source: New York State Public Health Law; Section 2805-i; “Treatment of sexual offense patients and maintenance of evidence in a sexual offense, including Sections 2805-i (4-b) and 2805-i (5); Establishment of hospital-based Sexual Assault Forensic Examiner Programs”; and New York State Public Health Law; Section 2805-p; “Emergency treatment of rape survivors.”
Anonymous / “Jane Doe” / Blind Reporting

Guiding Principle
■ Emphasizes keeping victim’s identity from law enforcement

Characteristics
■ Victims are offered a SAFE exam regardless of decision to cooperate or participate with justice system
■ From a law enforcement perspective, they are not investigating until victim chooses to make a full report
■ Law enforcement may document evidence through a police report or an informational report
■ Generally, law enforcement transports evidence to police department for storage
■ Also known as ‘Third Party Reporting’
Anonymous Reporting: Oregon

SAFE Kits, where the identity of the victim is unknown, will need to be assigned a case number and entered into evidence. Methods such as Jane Doe reporting, citizen contact, suspicious incident or sexual offense can be utilized for generating a case number.

Source: Attorney General’s Sexual Assault Task Force Recommended Law Enforcement Policy
Anonymous Mandatory Reporting

Guiding Principles
- Uniform reporting of sexual assault will allow the State to learn much more regarding the prevalence of sexual assault.

Characteristics
- Victims are offered a SAFE exam regardless of their decision to cooperate with law enforcement and/or participate with the criminal justice system
- From a law enforcement perspective, a crime has taken place, which is generally documented through an alternative manner (such as a supplemental report filed by a health care provider)
- Generally, law enforcement transports evidence to police department for storage
Anonymous Mandatory Reporting: Massachusetts

“Every physician attending, treating, or examining a victim of rape or sexual assault, or, whenever any such case is treated in a hospital, sanatorium or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the criminal history systems board and to the police of the town where the rape or sexual assault occurred but shall not include the victim’s name, address, or any other identifying information. The report shall describe the general area where the attack occurred. Whoever violates any provision of this section shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars.”

Source: Massachusetts General Law, Chapter 112, Section 12½
Evidence-Based Prosecution Option

Guiding Principle

- Proper evidence collection may allow prosecutor to proceed in prosecuting the case with physical evidence only

Characteristics

- Similar to pro-prosecution model for domestic violence
- At this time, this theoretical option is being considered as a possibility in a few jurisdictions
Military: Restricted Reporting

Guiding Principles
- Recognizes the significant deterrents to reporting within the military
- Emphasizes the availability of supportive services
- Encourages more accurate data collection

Characteristics
- Similar to the civilian Anonymous Reporting options
- Victim is afforded protection from Chain of Command notifications
- Victim may opt to change the report to “Unrestricted” in the future
Promising Statutes & Policies

EVIDENCE COLLECTION:

- New York
  - Sexual Assault Examiner Program Fact Sheet: [http://criminaljustice.state.ny.us/ofpa/saefactsheet.htm](http://criminaljustice.state.ny.us/ofpa/saefactsheet.htm)

ANONYMOUS REPORTING:

- Oregon

MANDATORY REPORTING:

- Massachusetts
Common Barriers

- Conflicting Legislation
- Response Protocol
- Reimbursement Process
- Handling of Evidence (Tracking, Transporting, and Storing)
Resolving Barriers: State Level vs. Local Level

- Explore what efforts, if any, exist at the state level to address compliance issues.

- Identify barriers that are appropriate for local multidisciplinary response teams (SART, SARRT, or other) to address.
Conflicting Legislation

- Generally addressed on the state level

Common Issues

- Conflicts with mandatory reporting
- Statutes addressing exam payments and/or reimbursements
Response Protocols

- Most likely a state response and a local response

Common Issues

- Developing statewide protocols in response to enabling legislation
- SART issue to discuss local response
Reimbursement / Payment

Issues

- Generally addressed on the state level

Common Issues

- Statutory roadblocks
- Administrative roadblocks
Handling of Evidence

- May be a state *and/or* a local issue

**Common Issues**
- Once evidence is collected, where is it stored?
- How is it transported?
- How is it tracked?
- Decide whether or not it will be processed through FBI’s CODIS
National Technical Assistance Project

- MCASA is a designated National Technical Assistance provider of the USDOJ Office on Violence Against Women.

- MCASA is researching, designing and disseminating a toolkit to aid states in becoming compliant.

  ➤ Phone: (410) 974-4507
  Debra Bright, National TA Project Director
  Email: d.bright@mcasa.org
### North Dakota Hospital Survey

1. What is the name of your health care facility?

<table>
<thead>
<tr>
<th>Response Count</th>
<th>Answered Question</th>
<th>Skipped Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>38</td>
<td>1</td>
</tr>
</tbody>
</table>

2. In the event that further information is requested, what is your contact information?

<table>
<thead>
<tr>
<th>Field</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
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<tr>
<td>Title:</td>
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</tr>
<tr>
<td>Health Care Facility:</td>
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<tr>
<td>Address:</td>
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<tr>
<td>Phone Number:</td>
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</table>

| Answered Question   | 38                |
| Skipped Question    | 1                 |
### Exhibit E - North Dakota Survey

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<td>3. What is the best way to contact you?</td>
<td>Phone</td>
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<td></td>
<td>Email</td>
<td>86.8%</td>
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</tr>
<tr>
<td></td>
<td>Other (please specify)</td>
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<td></td>
</tr>
<tr>
<td></td>
<td><strong>answered question</strong></td>
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<tr>
<td></td>
<td><strong>skipped question</strong></td>
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<td></td>
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</table>

<table>
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<tr>
<th>4. Does your health care facility provide acute sexual assault forensic examinations?</th>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
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<tbody>
<tr>
<td>Yes</td>
<td>63.2%</td>
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<tr>
<td>No</td>
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<tr>
<td><strong>answered question</strong></td>
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<tr>
<td><strong>skipped question</strong></td>
<td>1</td>
<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>5. If no, to which health care facility does your staff refer patients for an acute sexual assault forensic examination?</th>
<th>Response</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>answered question</strong></td>
<td>16</td>
<td></td>
</tr>
<tr>
<td><strong>skipped question</strong></td>
<td>23</td>
<td></td>
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</table>
6. If your health care facility refers patients to an alternative facility for an acute sexual assault forensic examination, how many miles must the patient travel to reach that facility?

<table>
<thead>
<tr>
<th>Distance Range</th>
<th>Response Percent</th>
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<tr>
<td>15 miles or less</td>
<td>8.7%</td>
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<td>15 - 30 miles</td>
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<td>0</td>
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<tr>
<td>30 - 60 miles</td>
<td>34.8%</td>
<td>8</td>
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<td>60-100 miles</td>
<td>47.8%</td>
<td>11</td>
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<tr>
<td>Over 100 miles</td>
<td>13.0%</td>
<td>3</td>
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<tr>
<td>Other (please specify)</td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

**Answered question:** 23

**Skipped question:** 16

7. If your health care facility refers patients to an alternative facility for an acute sexual assault forensic examination to be completed, do you arrange for patient transportation to that facility?

<table>
<thead>
<tr>
<th>Response</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>73.9%</td>
<td>17</td>
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<tr>
<td>No</td>
<td>4.3%</td>
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<tr>
<td>I do not know</td>
<td>21.7%</td>
<td>5</td>
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</tbody>
</table>

Comments: 11

**Answered question:** 23

**Skipped question:** 16
8. If your health care facility does arrange for patient transportation to an alternative facility, what form of transportation is generally secured?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
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</thead>
<tbody>
<tr>
<td>Ambulance</td>
<td>37.5%</td>
<td>9</td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>50.0%</td>
<td>12</td>
</tr>
<tr>
<td>Public Transportation</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Advocates</td>
<td>20.8%</td>
<td>5</td>
</tr>
<tr>
<td>Family and/or Friends</td>
<td>41.7%</td>
<td>10</td>
</tr>
<tr>
<td>Not applicable</td>
<td>8.3%</td>
<td>2</td>
</tr>
<tr>
<td>I do not know</td>
<td>25.0%</td>
<td>6</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

9. Does your health care facility track the number of acute sexual assault forensic examinations it performs?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>36.1%</td>
<td>13</td>
</tr>
<tr>
<td>No (Please skip to Question 14)</td>
<td>52.8%</td>
<td>19</td>
</tr>
<tr>
<td>I do not know (Please skip to Question 14)</td>
<td>11.1%</td>
<td>4</td>
</tr>
</tbody>
</table>

Comments: 4

answered question 36

skipped question 3
10. If your health care facility tracks the acute sexual assault forensic examinations performed, how many acute sexual assault forensic examinations (examinations that have been performed within 96 hours after the alleged sexual assault) have been completed by your health care facility during the period of July 1, 2007 - March 31, 2008?

<table>
<thead>
<tr>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
</tr>
</tbody>
</table>

11. Using the total number of acute sexual assault forensic examinations completed between July 1, 2007 - March 31, 2008, please indicate the number of exams provided by your health care facility within the following age categories. [NOTE: This question is collecting data on all acute sexual assault forensic examinations to assess the current demographics.]

<table>
<thead>
<tr>
<th>Age</th>
<th>Response Average</th>
<th>Response Total</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age 0-5</td>
<td>0.40</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Age 6-12</td>
<td>0.50</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Age 13-17</td>
<td>2.89</td>
<td>26</td>
<td>9</td>
</tr>
<tr>
<td>Age 18-29</td>
<td>7.00</td>
<td>70</td>
<td>10</td>
</tr>
<tr>
<td>Age 30-44</td>
<td>2.00</td>
<td>12</td>
<td>6</td>
</tr>
<tr>
<td>Age 45-64</td>
<td>1.00</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Age 65 and over</td>
<td>0.25</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Unknown</td>
<td>1.50</td>
<td>6</td>
<td>4</td>
</tr>
</tbody>
</table>

| answered question | 14 |
| skipped question  | 25 |
### Exhibit E - North Dakota Survey

<table>
<thead>
<tr>
<th></th>
<th>Response Average</th>
<th>Response Total</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Males</strong></td>
<td>0.40</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td><strong>Females</strong></td>
<td>10.00</td>
<td>140</td>
<td>14</td>
</tr>
<tr>
<td><strong>Unknown</strong></td>
<td>0.00</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

*answered question 14*  
*skipped question 25*

13. Using the total number of acute sexual assault forensic examinations completed by your health care facility between July 1, 2007 - March 31, 2008, please indicate the number of acute exams provided within the following categories of race/ethnicity:

<table>
<thead>
<tr>
<th></th>
<th>Response Average</th>
<th>Response Total</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Caucasian</strong></td>
<td>6.10</td>
<td>61</td>
<td>10</td>
</tr>
<tr>
<td><strong>African American</strong></td>
<td>0.33</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><strong>Hispanic</strong></td>
<td>0.50</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Asian American</strong></td>
<td>0.00</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td><strong>Native American</strong></td>
<td>1.00</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td><strong>Multi-Race</strong></td>
<td>0.00</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td>0.33</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><strong>Unknown</strong></td>
<td>13.50</td>
<td>54</td>
<td>4</td>
</tr>
</tbody>
</table>

*answered question 14*  
*skipped question 25*
### Exhibit E - North Dakota Survey

<table>
<thead>
<tr>
<th>Question</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>14. When conducting an acute sexual assault forensic examination, what variable(s) determines the use of a child or adult protocol within your health care facility?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td>72.2%</td>
<td>26</td>
</tr>
<tr>
<td>Physical/Emotional Development</td>
<td>25.0%</td>
<td>9</td>
</tr>
<tr>
<td>Other</td>
<td>2.8%</td>
<td>1</td>
</tr>
<tr>
<td>Unknown</td>
<td>25.0%</td>
<td>9</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>answered question</td>
<td></td>
<td>36</td>
</tr>
<tr>
<td>skipped question</td>
<td></td>
<td>3</td>
</tr>
</tbody>
</table>

15. When your health care facility utilizes a minimum age policy for using an adult protocol within an acute sexual assault forensic examination, what is the minimum age?

<table>
<thead>
<tr>
<th>Response</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>2.9%</td>
<td>1</td>
</tr>
<tr>
<td>13</td>
<td>5.7%</td>
<td>2</td>
</tr>
<tr>
<td>14</td>
<td>28.6%</td>
<td>10</td>
</tr>
<tr>
<td>16</td>
<td>8.6%</td>
<td>3</td>
</tr>
<tr>
<td>18</td>
<td>11.4%</td>
<td>4</td>
</tr>
<tr>
<td>Not applicable</td>
<td>14.3%</td>
<td>5</td>
</tr>
<tr>
<td>I do not know</td>
<td>28.6%</td>
<td>10</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>answered question</td>
<td></td>
<td>35</td>
</tr>
<tr>
<td>skipped question</td>
<td></td>
<td>4</td>
</tr>
</tbody>
</table>
16. How many of the acute sexual assault forensic examinations conducted at your health care facility (during this same time frame) involved patients who agreed to the evidence collection but who, at the time of the examination, did not wish to report or participate with law enforcement?

<table>
<thead>
<tr>
<th>Response</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>answered question</td>
<td>37</td>
</tr>
<tr>
<td>skipped question</td>
<td>2</td>
</tr>
</tbody>
</table>

17. Of those victims who initially chose not to report the sexual assault, how many ultimately reported the incident to law enforcement?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number who later reported</td>
<td>44.0%</td>
<td>11</td>
</tr>
<tr>
<td>Unknown</td>
<td>72.0%</td>
<td>18</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Response</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>answered question</td>
<td>25</td>
</tr>
<tr>
<td>skipped question</td>
<td>14</td>
</tr>
</tbody>
</table>
### 18. Does your health care facility employ trained Sexual Assault Nurse Examiners (SANEs) to complete the forensic medical examinations?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, they are full time employees with the hospital</td>
<td>19.4%</td>
<td>7</td>
</tr>
<tr>
<td>Yes, they are part time employees with the hospital</td>
<td>2.8%</td>
<td>1</td>
</tr>
<tr>
<td>They are employed through a contractual agreement with the hospital</td>
<td>2.8%</td>
<td>1</td>
</tr>
<tr>
<td>No</td>
<td>72.2%</td>
<td>26</td>
</tr>
<tr>
<td>I do not know</td>
<td>2.8%</td>
<td>1</td>
</tr>
</tbody>
</table>

Other (please specify) 7

- answered question 36
- skipped question 3

### 19. Which individuals perform the acute sexual assault forensic examination within your health care facility? [NOTE: Please check all that apply]

<table>
<thead>
<tr>
<th>Role</th>
<th>Response</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual Assault Nurse Examiner/Forensic Nurse Examiner</td>
<td>34.4%</td>
<td>11</td>
</tr>
<tr>
<td>Registered Nurse</td>
<td>37.5%</td>
<td>12</td>
</tr>
<tr>
<td>Nurse Practitioner</td>
<td>43.8%</td>
<td>14</td>
</tr>
<tr>
<td>Physician Assistant</td>
<td>25.0%</td>
<td>8</td>
</tr>
<tr>
<td>Physician</td>
<td>68.8%</td>
<td>22</td>
</tr>
<tr>
<td>I do not know</td>
<td>6.3%</td>
<td>2</td>
</tr>
</tbody>
</table>

Other (please specify) 9

- answered question 32
- skipped question 7
## 20. What health care providers at your facility conduct the medical screening as required by the Emergency Medical Treatment and Labor Act (EMTALA) on patients who indicate that they have been sexually assaulted?

<table>
<thead>
<tr>
<th>Provider</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>ER Physician</td>
<td>88.9%</td>
<td>32</td>
</tr>
<tr>
<td>ER Nurse</td>
<td>25.0%</td>
<td>9</td>
</tr>
<tr>
<td>Physician Assistant</td>
<td>30.6%</td>
<td>11</td>
</tr>
<tr>
<td>Nurse Practitioner</td>
<td>41.7%</td>
<td>15</td>
</tr>
<tr>
<td>Sexual Assault Nurse Examiner (SANE)</td>
<td>8.3%</td>
<td>3</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>3</td>
</tr>
</tbody>
</table>

**Response Count:** 36

**Skipped Question:** 3

## 21. What is the average length of time a sexual assault patient spends at your health care facility?

<table>
<thead>
<tr>
<th>Duration</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2 hours</td>
<td>20.0%</td>
<td>7</td>
</tr>
<tr>
<td>2-4 hours</td>
<td>34.3%</td>
<td>12</td>
</tr>
<tr>
<td>4-6 hours</td>
<td>25.7%</td>
<td>9</td>
</tr>
<tr>
<td>More than 6 hours</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>I do not know</td>
<td>20.0%</td>
<td>7</td>
</tr>
</tbody>
</table>

**Comments:** 6

**Response Count:** 35

**Skipped Question:** 4
### Exhibit E - North Dakota Survey

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, all patients were provided additional medical care related to the sexual assault</td>
<td>71.4%</td>
<td>25</td>
</tr>
<tr>
<td>The majority of patients were not provided general medical care at the request of the patient</td>
<td>8.6%</td>
<td>3</td>
</tr>
<tr>
<td>I do not know</td>
<td>20.0%</td>
<td>7</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Answered Question</strong></td>
<td></td>
<td>35</td>
</tr>
<tr>
<td><strong>Skipped Question</strong></td>
<td></td>
<td>4</td>
</tr>
</tbody>
</table>

23. Upon discharge from the hospital, does your emergency department routinely secure transportation for patients who indicate that they have been sexually assaulted?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>50.0%</td>
<td>16</td>
</tr>
<tr>
<td>No</td>
<td>37.5%</td>
<td>12</td>
</tr>
<tr>
<td>I do not know</td>
<td>12.5%</td>
<td>4</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Answered Question</strong></td>
<td></td>
<td>32</td>
</tr>
<tr>
<td><strong>Skipped Question</strong></td>
<td></td>
<td>7</td>
</tr>
</tbody>
</table>
### Exhibit E - North Dakota Survey

#### Question 24
If your health care facility does arrange for patient transportation upon discharge, what form of transportation is generally secured?

<table>
<thead>
<tr>
<th>Transportation</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulance</td>
<td>8.6%</td>
<td>3</td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>28.6%</td>
<td>10</td>
</tr>
<tr>
<td>Public Transportation</td>
<td>2.9%</td>
<td>1</td>
</tr>
<tr>
<td>Advocates</td>
<td>45.7%</td>
<td>16</td>
</tr>
<tr>
<td>Family and/or Friends</td>
<td>54.3%</td>
<td>19</td>
</tr>
<tr>
<td>Not applicable</td>
<td>17.1%</td>
<td>6</td>
</tr>
<tr>
<td>I do not know</td>
<td>11.4%</td>
<td>4</td>
</tr>
</tbody>
</table>

Other (please specify) | 3

**Answered Question:** 35

**Skipped Question:** 4

#### Question 25
During the sexual assault forensic examination, does your health care facility have advocacy or professional support services available?

<table>
<thead>
<tr>
<th>Service Available</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the advocate or support service professional is called to the facility to explain and offer their service to the patient</td>
<td>40.0%</td>
<td>14</td>
</tr>
<tr>
<td>Yes, the advocate or support service professional is available if the patient requests that service after being notified that the service exists</td>
<td>20.0%</td>
<td>7</td>
</tr>
<tr>
<td>No, there are no advocacy services or professional support services available</td>
<td>25.7%</td>
<td>9</td>
</tr>
<tr>
<td>I do not know if these services are available</td>
<td>14.3%</td>
<td>5</td>
</tr>
</tbody>
</table>

Other (please specify) | 2

**Answered Question:** 35
### 26. If your health care facility has access to advocacy or professional support services to assist patients during the sexual assault forensic exam, who are they?

<table>
<thead>
<tr>
<th>Option</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>A sexual assault advocate from a rape crisis center</td>
<td>42.4%</td>
<td>14</td>
</tr>
<tr>
<td>A volunteer from the rape crisis center</td>
<td>24.2%</td>
<td>8</td>
</tr>
<tr>
<td>A professional counselor, social worker, or mental health professional from our health care facility</td>
<td>9.1%</td>
<td>3</td>
</tr>
<tr>
<td>We do not have advocacy or professional support services available</td>
<td>12.1%</td>
<td>4</td>
</tr>
<tr>
<td>We do not have a rape crisis center in our community</td>
<td>30.3%</td>
<td>10</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>7</td>
</tr>
</tbody>
</table>

#### Answered Question
- 33

#### Skipped Question
- 6

### 27. Do you know the name and contact information for your local rape crisis center?

<table>
<thead>
<tr>
<th>Option</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>72.2%</td>
<td>26</td>
</tr>
<tr>
<td>No</td>
<td>27.8%</td>
<td>10</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>7</td>
</tr>
</tbody>
</table>

#### Answered Question
- 36

#### Skipped Question
- 3
28. If an advocate is not present or available, does your health care facility routinely provide information to patients who have been sexually assaulted regarding rape crisis center services available in your community?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>75.0%</td>
<td>27</td>
</tr>
<tr>
<td>No</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>I am not aware of the services available by the rape crisis center serving our community</td>
<td>11.1%</td>
<td>4</td>
</tr>
<tr>
<td>I do not know if our health care facility routinely provides this information to patients who have been sexually assaulted</td>
<td>13.9%</td>
<td>5</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>5</td>
</tr>
</tbody>
</table>

36 answered question
3 skipped question

29. Would it be helpful to your health care facility to have brochures and/or educational materials from the local rape crisis center available so that you may provide referrals to patients who indicate that they have been sexually assaulted?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>97.2%</td>
<td>35</td>
</tr>
<tr>
<td>No</td>
<td>2.8%</td>
<td>1</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>6</td>
</tr>
</tbody>
</table>

36 answered question
3 skipped question
30. Have the health care providers working in your health care facility's Emergency Department attended a formal training on how to complete the forensic medical kit?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, all health care providers performing examinations have completed training</td>
<td>14.7%</td>
<td>5</td>
</tr>
<tr>
<td>Not all health care providers completing examinations have undergone formal training</td>
<td>44.1%</td>
<td>15</td>
</tr>
<tr>
<td>I am unable to answer this question as I am not familiar with their training credentials</td>
<td>41.2%</td>
<td>14</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>7</td>
</tr>
</tbody>
</table>

31. In your health care facility, how are trainings provided to current and new staff on protocols and procedures for completing acute sexual assault forensic examinations?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>One day trainings</td>
<td>88.9%</td>
<td>8</td>
</tr>
<tr>
<td>On line trainings</td>
<td>22.2%</td>
<td>2</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>27</td>
</tr>
</tbody>
</table>

**answered question** 34

**skipped question** 5
### 32. Does the emergency department and/or SANEs within your health care facility use the North Dakota State Evidence Collection Kit (also known as the “rape kit”)?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>89.2%</td>
<td>33</td>
</tr>
<tr>
<td>No</td>
<td>2.7%</td>
<td>1</td>
</tr>
<tr>
<td>I do not know</td>
<td>8.1%</td>
<td>3</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td><strong>Answered question</strong></td>
<td></td>
<td>37</td>
</tr>
<tr>
<td><strong>Skipped question</strong></td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

### 33. Assuming you have the patient’s consent, does your health care facility follow all the steps listed on the Sexual Assault Examination Procedures Chart Summary recommended within the rape kit?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>81.1%</td>
<td>30</td>
</tr>
<tr>
<td>No</td>
<td>2.7%</td>
<td>1</td>
</tr>
<tr>
<td>I am not familiar with the &quot;steps&quot; recommended within the kit and am unable to answer the question</td>
<td>16.2%</td>
<td>6</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td><strong>Answered question</strong></td>
<td></td>
<td>37</td>
</tr>
<tr>
<td><strong>Skipped question</strong></td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

### 34. If you do not follow all of the steps on the Sexual Assault Examination Procedures Chart Summary within the rape kit, which steps do you not follow and why?

**Answered question** 8
**Skipped question** 31
### 35. Does your program use Toluidine Blue for injury detection?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>19.4%</td>
<td>7</td>
</tr>
<tr>
<td>No</td>
<td>33.3%</td>
<td>12</td>
</tr>
<tr>
<td>I do not know</td>
<td>50.0%</td>
<td>18</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>3</td>
</tr>
</tbody>
</table>

Answered question: 36

Skipped question: 3

### 36. Does your program have an ultraviolet light (examples include Woods Lamp or BlueMaxx Lights)?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>52.8%</td>
<td>19</td>
</tr>
<tr>
<td>No</td>
<td>27.8%</td>
<td>10</td>
</tr>
<tr>
<td>I do not know</td>
<td>19.4%</td>
<td>7</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

Answered question: 36

Skipped question: 3
### Exhibit E - North Dakota Survey

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, we use a digital camera</td>
<td>67.6%</td>
<td>25</td>
</tr>
<tr>
<td>Yes, we use a 35mm camera</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Yes, we use a Polaroid</td>
<td>18.9%</td>
<td>7</td>
</tr>
<tr>
<td>Yes, we use a Colposcope</td>
<td>2.7%</td>
<td>1</td>
</tr>
<tr>
<td>No, we do not have a camera</td>
<td>8.1%</td>
<td>3</td>
</tr>
<tr>
<td>I do not know</td>
<td>5.4%</td>
<td>2</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>6</td>
</tr>
</tbody>
</table>

**answered question**: 37  
**skipped question**: 2

### 38. If you feel there is a more appropriate individual within your health care facility to direct the billing questions, who is that individual and how can we reach them?

<table>
<thead>
<tr>
<th>Response</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>21</td>
</tr>
</tbody>
</table>

**answered question**: 21  
**skipped question**: 18
### Exhibit E - North Dakota Survey

#### 39. Has your health care facility requested reimbursement for acute sexual assault forensic examinations from the North Dakota Office of Attorney General?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>50.0%</td>
<td>16</td>
</tr>
<tr>
<td>No</td>
<td>34.4%</td>
<td>11</td>
</tr>
<tr>
<td>I was not aware that we could seek reimbursement</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>I do not know</td>
<td>15.6%</td>
<td>5</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>5</td>
</tr>
</tbody>
</table>

**answered question** 32

**skipped question** 7

#### 40. If you have not requested reimbursement for these acute forensic sexual assault examinations, why not?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>I plan to seek reimbursement, however I have not been able to complete the task due to staffing and/or time limitations.</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Our health care facility is covering all costs associated with the sexual assault forensic examinations and we will not be seeking reimbursement through the North Dakota Office of Attorney General</td>
<td>18.2%</td>
<td>2</td>
</tr>
<tr>
<td>The forms are too complicated</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>I was not aware of the Fund, please send me information on how to seek reimbursement</td>
<td>18.2%</td>
<td>2</td>
</tr>
<tr>
<td>I am unable to answer this question</td>
<td>63.6%</td>
<td>7</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>10</td>
</tr>
</tbody>
</table>

**answered question** 11

**skipped question** 28
41. What costs for services provided over and above the provision of the acute sexual assault forensic examination are routinely charged to the patient of sexual assault?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not applicable. Our health care facility covers all costs for the examination and ancillary expenses.</td>
<td>22.7%</td>
<td>5</td>
</tr>
<tr>
<td>Treatment of injuries over and above the sexual assault</td>
<td>77.3%</td>
<td>17</td>
</tr>
<tr>
<td>Medical Assessment/Screening</td>
<td>4.5%</td>
<td>1</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>9</td>
<td></td>
</tr>
</tbody>
</table>

22.7% answered question

17 answered question

9 skipped question

42. Are patients charged for the Emergency Medical Treatment and Labor Act (EMTALA) medical screening?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>12.5%</td>
<td>4</td>
</tr>
<tr>
<td>No</td>
<td>56.3%</td>
<td>18</td>
</tr>
<tr>
<td>I do not know</td>
<td>31.3%</td>
<td>10</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>5</td>
<td></td>
</tr>
</tbody>
</table>

4 answered question

18 answered question

10 skipped question

5 answered question

7 skipped question
### 43. What is the total average cost for services provided for one acute sexual assault forensic examination (from check-in to discharge)?

<table>
<thead>
<tr>
<th>Cost Range</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below $500</td>
<td>16.1%</td>
<td>5</td>
</tr>
<tr>
<td>$500 - $750</td>
<td>6.5%</td>
<td>2</td>
</tr>
<tr>
<td>$750 - $1,000</td>
<td>19.4%</td>
<td>6</td>
</tr>
<tr>
<td>$1,000 - $2,000</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Over $2,000</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>I do not know</td>
<td>58.1%</td>
<td>18</td>
</tr>
</tbody>
</table>

Other (please specify) 3

**answered question** 31

**skipped question** 8

### 44. Which of the following resources have your health care facility used to bill for costs incurred from the provision of services to sexual assault victims?

<table>
<thead>
<tr>
<th>Resource</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>The North Dakota Crime Victims Compensation Program through the Department of Corrections and Rehabilitation</td>
<td>26.7%</td>
<td>8</td>
</tr>
<tr>
<td>The North Dakota Attorney General’s Office</td>
<td>40.0%</td>
<td>12</td>
</tr>
<tr>
<td>Patients’ private insurance</td>
<td>20.0%</td>
<td>6</td>
</tr>
<tr>
<td>Patients’ public insurance</td>
<td>13.3%</td>
<td>4</td>
</tr>
<tr>
<td>The patient is responsible for the costs</td>
<td>10.0%</td>
<td>3</td>
</tr>
<tr>
<td>I do not know</td>
<td>50.0%</td>
<td>15</td>
</tr>
</tbody>
</table>

Other (please specify) 6

**answered question** 30

**skipped question** 9
<table>
<thead>
<tr>
<th>Response</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>answered question</td>
<td>10</td>
</tr>
<tr>
<td>skipped question</td>
<td>29</td>
</tr>
</tbody>
</table>
VAWA Forensic Compliance Project

Information Regarding Reporting Rates: Victims seeking medical attention

Massachusetts is a state with “mandatory reporting” for all sexual assaults:

Chapter 112: Section 12A1/2. Reporting treatment of victim of rape or sexual assault; penalty

Section 12A1/2. Every physician attending, treating, or examining a victim of rape or sexual assault, or, whenever any such case is treated in a hospital, sanatorium or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the criminal history systems board and to the police of the town where the rape or sexual assault occurred but shall not include the victim’s name, address, or any other identifying information. The report shall describe the general area where the attack occurred.

Data indicates that between the years of 2001 – 2004, “73% of victims….indicated that they reported their crime to police”.


*************************************************

“All rapes, 39% of attempted rapes, and 17% of sexual assaults against females resulted in inured victims. Most inured rape, attempted rape, and sexual assault victims did not receive treatment for their injuries (1992-2000).”

“Most rapes and sexual assaults against females were not reported to the police. Thirty-six percent of rapes, 34% of attempted rapes, and 26% of sexual assaults were reported to police (1992 – 2000).”

“Fifty-nine percent of the victims of completed rape whose victimizations were reported to the police were treated for their injuries, compared to 17% of rape victims with unreported victimizations.”

“Forty five percent of injured female victims of a reported attempted rape compared to 22% of injured victims of an unreported attempted rape received medical treatment (1992 – 2000).”

VAWA Forensic Compliance Project
Survey Results: State STOP Administrators*
Forensic Evidence Collection: Policies & Systems
First Responders to Victim
\( N = 36 \)

13 responders indicated that the identity of the First Responder may vary within their state.

VAWA Forensic Compliance Project
Survey Results: State STOP Administrators*
Forensic Evidence Collection: Policies & Systems
Who Communicates Options to Victim
N = 36

* Survey Conducted of State STOP Administrators and State Coalition Directors
Informed Consent for Sexual Assault Evidence Collection

I ______________________ am requesting Sexual Assault Evidence Collection and I do not want to be interviewed at this time by law enforcement.

I have read and understand the following:
A. I will not be billed for the evidence collection.

B. The benefits of cooperating with law enforcement include:
   1. Law enforcement will have an opportunity to collect evidence from you, from the suspect and from other possible crime scenes.
   2. Witnesses may be interviewed in a timely fashion.
   3. I may be eligible for Crime Victims Reparations Funds to pay for counseling and other services.

C. By delaying an interview with law enforcement I understand the following may occur:
   1. Evidence that would normally be collected by law enforcement will be permanently lost.
   2. Suspects and witnesses will not be interviewed and they may not be willing to cooperate later.

D. By delaying an interview with law enforcement, it may be more difficult, if not impossible, for a prosecutor to file charges against the suspect, if I later decide to cooperate.

E. I can receive emergency contraception and medication to prevent sexually transmitted infections without having evidence collected.

F. In accordance with U.C.A. 26-23a-2 Injury reporting requirements by health care provider, my name address and the extent of my injuries will be given to law enforcement who will hold any evidence collected for sixty (60) days. If I decide I want to report to law enforcement I can contact __________________ at ______________ before ______________. After ninety days, or on _____ day ___________ of 20____ the evidence will be destroyed.

Signed                                                                                       Date

Utah Toll-Free, 24-Hour Crisis and Information Line:
1.888.421.1100

State of Utah Crime Victims Reparations 1-800- 621-7444
Department of Criminal Justice Services
Frequently Asked Questions (FAQ)

Physical Evidence Recovery Kit (PERK) Authorization and Payment:

Improving Access to Sexual Assault Forensic Examinations

Amendments to the Code of Virginia (See §§ 19.2-165.1, 19.2-368.3, and 19.2-368.11:1) effective July 1, 2008, make significant changes to laws describing the provision of, and payment for, forensic examinations in sexual assault cases. These changes bring Virginia into compliance with federal law. The laws essentially require that victims must have access to forensic exams, even if victims choose not to participate in the criminal justice system, or otherwise cooperate with law enforcement authorities. Additionally, the state must pay for all out-of-pocket costs associated with the gathering of evidence. The federal and state laws do not mandate specific implementation steps. In addition to this FAQ, the Department of Criminal Justice Services (DCJS) has developed a model law enforcement directive. See http://www.dcjs.virginia.gov/cple/sampleDirectives/manual/rtf/2-31.rtf which local law enforcement departments are encouraged to adapt and adopt. The model directive can serve as a vehicle to promote collaboration among law enforcement agencies and allied professionals within communities resulting in the development of complementary, comprehensive, multi-disciplinary victim-centered policies.

These changes in law and policy are intended to reduce trauma to sexual assault victims, while streamlining and improving the collection of forensic evidence in cases of sexual assault. It is anticipated that the new legislation may increase the number of victims reporting sexual assaults to law enforcement agencies. Implementing these Code changes will require local law enforcement officials, sexual assault crisis center advocates, healthcare providers, victim advocates, and allied professionals to develop local implementation strategies and policies that protect victims, while promoting the public safety interests of the community.

The document presented below is intended to address some of the most frequently asked questions regarding the statutory changes and their implementation.
Q: What are the new federal and state laws regarding sexual assault forensic examinations?

A:

Federal Law

The Violence Against Women and Department of Justice Reauthorization Act of 2005 ("VAWA 2005"), 42 U.S.C. § 3796gg-4(d), provides that states may not "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, reimbursed for charges incurred on account of such an exam, or both" (the "VAWA 2005 forensic examination requirement"). Under this provision a state must ensure that victims have access to an exam, and that the state will pay for the exam, even if the victim chooses not to participate in the criminal justice system, or otherwise cooperate with the criminal justice system or law enforcement authorities.

States must certify that they comply with these provisions to be eligible to continue to receive federal funds available through the federal Violence Against Women Act (VAWA). Virginia currently receives approximately $2.5 million annually through VAWA - STOP funds and awards V-STOP grants to support programs and initiatives in law enforcement, prosecution, victims’ services, advocacy and court-based programs throughout the Commonwealth.

State Law

House Bill 956 and Senate Bill 312, passed during the 2008 Session of the General Assembly and signed by Governor Kaine, bring Virginia into statutory compliance with the federal VAWA requirements. These bills clarify that all sexual assault forensic examinations conducted are to be paid by the Commonwealth, whether or not victims cooperate with law enforcement authorities and/or participate in the criminal justice system. Additionally, these bills indicate that the Criminal Injuries Compensation Fund (CICF) can pay health care providers directly for the costs of performing the physical evidence recovery kit (PERK) examinations used in cases of sexual assault. (See §§ 19.2-165.1, 19.2-368.3, and 19.2-368.11:1)

Q: Is authorization required in order for a PERK examination to be conducted?

A. No. Authorization by Commonwealth’s attorneys, law enforcement officers, or their designees is no longer required in order for a victim to obtain a PERK examination, or for that examination to be paid for by the Commonwealth. Not allowing victims of sexual assault access to PERK examinations violates the law. Providing accurate and objective information that assists victims in making informed decisions about reporting is important and complies with the spirit of the law.
Q: Does a victim need to make a police report in order to have a forensic examination completed and paid for?

A: No. A report by the victim to a law enforcement agency is not required, and such a requirement would violate the new statute. Victims have the right to refuse to speak to law enforcement officers. It is certainly reasonable, however, to advise victims that their decisions to delay reporting to police, will make successful investigation and prosecution of their cases more difficult. Victims should also be advised that the PERK kit will be turned over to a law enforcement agency, and that each agency has the authority to initiate an investigation on its own if they so choose. This fact speaks to the importance of law enforcement agencies working closely with victims services providers, health care providers, and their Commonwealth’s Attorney to establish a consistent policy that gives consideration to both public safety priorities and to the needs of the victims of sexual assaults.

Q: What happens if a victim consents to an exam, but is reluctant to report the crime and/or cooperate further with law enforcement authorities?

A: Although it is anticipated that the majority of sexual assault victims will consent to cooperate with law enforcement officials, subsequent to the forensic medical examination and evidence collection (PERK) process, there may be instances in which a victim chooses not to cooperate initially.

Law enforcement personnel should follow standard state and local procedures in taking custody of the evidence available, along with any personal information about the victim that may be available at that time. The officer/investigator should inform the victim, if the victim consents to meet with him/her, that the release of evidence is not a commitment to prosecute. The intent is to enable the victim to make an informed decision.

If kits will be stored at the law enforcement agency, kits and clothing bags should be stored in a refrigerated, locked, secure area, in accordance with locally agreed upon procedures. Capacity to appropriately store evidence on a temporary basis will vary by locality. The law does not currently mandate specific procedures in this regard. Therefore, localities have the discretion to develop procedures that fit best with local resources and practices.

Q: Do the VAWA 2005 and state law changes require “Jane Doe Rape Kits” or “anonymous reporting?”

A: No, Virginia is not required to institute anonymous reporting. Some states and localities are instituting it voluntarily. Under VAWA 2005, states are only required to ensure that victims will not incur costs associated with the gathering of forensic evidence, regardless of whether they choose to report the sexual assaults to law enforcement authorities or cooperate with the criminal justice system.
Since anonymous reporting is not mandated by law, localities that choose to implement anonymous reporting should develop local policies which outline the handling and preservation of evidence collected in cases where victims do not wish to make a formal police report. The current DCJS sample directive on sexual assault investigations does not outline a so-called “Jane Doe” or “blind reporting” or “anonymous reporting” process. Local officials interested in implementing such a process should consider it in consultation with their local prosecutors, victim services agency partners, health care providers, and/or hospital representatives, and forensic lab personnel.

Q: What is a “Jane Doe Rape Kit?”

A: A “Jane Doe Rape Kit” is the common name for the forensic evidence collected during a sexual assault examination of a victim who chooses to remain anonymous. A “Jane Doe Rape Kit” enables a victim to have forensic evidence collected without revealing identifying information to law enforcement authorities. Victims are given a code number (most often the PERK identification number) they can use to identify themselves if they choose to report later, and they are not required to cooperate with law enforcement or criminal justice authorities. Some states and localities provide this option to victims who are not ready to report to law enforcement at the time of the examination.

Q: What are some of the issues victims need to be aware of while considering whether to report a crime and/or cooperate in a law enforcement investigation?

A: Before law enforcement authorities are called or any evidence collection examination is undertaken, it is essential that victims understand that involving law enforcement authorities and/or consenting to the PERK exam can impact their privacy and their ability to control access to information related to the assault. In order for victims to make the most informed decisions regarding their options, it is critical that they understand the implications and/or consequences of not reporting to law enforcement in a timely manner. These include:

- Law enforcement may not be able to collect evidence at the scene of the crime or from the perpetrator.
- It is possible that delay would prevent witnesses being interviewed in a timely manner.
- Delayed reporting could make it more difficult to prosecute a case in the future.
- Evidence could deteriorate over time, rendering the evidence collected through the PERK examination less useful or compromised.
- Identifying information at the hospital or treatment facility is subject to subpoena by law enforcement, should law enforcement deem it necessary to open an in-
vestigation. Thus victims should be informed about local hospital and law enforcement practices.

- Victims should be notified that by consenting to a PERK examination, they are consenting to having the kit submitted to law enforcement officials.

- Even if the victim chooses not to cooperate with law enforcement, the victim’s name and/or other identifying information may be released to law enforcement when they pick up the PERK kit.

- The length of time the kit will be stored for possible prosecution in the future may vary from jurisdiction to jurisdiction; victims should be made aware of what the local policies are regarding length of storage.

- If the kit is taken to a Department of Forensic Science lab, it will be analyzed for DNA and may be used as evidence in other cases if necessary.

Advocates, forensic nurses and other medical staff play a critical role in conveying this information so that a victim can make the best, most informed decision. Law enforcement agencies may enhance the likelihood of victims cooperating by establishing close working relationships with sexual assault crisis center advocates, victim services and medical agencies, in advance of actual instances of crime.

Q: Does the law require that Virginia pay for forensic exams?

A: Yes. VAWA indicates that each state may develop its own means to reimburse medical facilities or victims for these examinations. A state’s procedure should ensure that medical facilities that offer forensic examinations will provide those examinations for every patient who requests one, regardless of whether the patient chooses to report a sexual assault to law enforcement.

Effective July 1, 2008, the Supreme Court of Virginia will no longer be responsible for payment of sexual assault forensic examinations or Physical Evidence Recovery Kits (PERKs). The Criminal Injuries Compensation Fund (CICF) will now process payment of these examinations.

Important notes regarding the changes to §19.2-165.1 of the Code of Virginia and new payment process are presented below.

- As of July 1, 2008, adult victims, aged 13 years and older, of an alleged sexual assault are no longer required to report the offense to law enforcement in order to have a sexual assault forensic examination or for payment by CICF. Mandatory child and elder abuse reporting requirements still apply.

- CICF will pay for costs associated with a sexual assault forensic exam. PERKs, or forensic examinations for any other purpose (such as child physical abuse, gun shot wounds, perpetrator PERKs, etc.), still have to be approved by
the local Commonwealth’s Attorney or his/her designee in advance of the exami-
nation per rules of the Virginia Supreme Court’s Criminal Fund. The Criminal 
Fund will reimburse non-sexual assault evidence collection in accordance with 
their rules.

☑ Hospitals and care providers must bill CICF directly with an itemized statement 
and Request for Payment form. This means bills for sexual assault forensic ex-
aminations should no longer be sent to the local Victim/Witness Programs to 
process payment. If a Victim/Witness program receives a bill in error, they 
should forward it immediately to CICF.

☑ Bills for exams completed prior to July 1, 2008 that are submitted for payment 
before July 1, 2008 still require authorization by the local Commonwealth’s Attor-
ney, or his/her designee, but should be mailed to CICF.

☑ Once the bill has been sent to CICF for consideration, the patient may not be 
placed into collections.

Q: What costs are covered for reimbursement according to the new CICF poli-
cies?

A: All costs associated with the collection of forensic medical evidence will be paid for 
by the Commonwealth. This includes professional service fees (which includes the col-
lection of the actual PERK kit), emergency department fees, laboratory fees, pregnancy 
testing, medications such as pregnancy and STI prophylaxis, and ambulance transpor-
tation to facilities that have the capacity to complete a PERK examination.

Q: What costs are not covered for direct reimbursement to the hospital, accord-
ing to the new CICF policies?

Costs not included for reimbursement include the following:

- Cost of treating injuries
- Follow-up or second appointments
- Duplicative services
- Medications filled off-site
- Air transport
- Follow-up medications
- Counseling
- Lost wages due to physical or emotional injury

For victims who cooperate with law enforcement authorities, some of these costs (for 
example medical costs, counseling, lost wages) may be covered if victims apply to the 
Criminal Injuries Compensation Fund, through the traditional claims process. Applica-
tions are available through local victim/witness programs or on-line at http://www.cicf.state.va.us/

Q: Where can I find further information relating to PERK payment policies and procedures?

A: Information relating to PERK payment policies and procedures, as well as requests for payment forms, can be obtained on the CICF website at http://www.cicf.state.va.us/forensic_exams.shtml

Q: What assistance is available to localities in implementing these legislative changes?

A: DCJS Model Policy
DCJS has developed a sample directive to assist local law enforcement agencies in updating their current policy on handling sexual assault cases. See http://www.dcjs.virginia.gov/cple/sampleDirectives/manual/rtf/2-31.rtf

☑️ Local agencies are strongly encouraged to consult with their Commonwealth’s Attorney, Sexual Assault Crisis Centers, and any other Victims Services agencies with whom they have, or wish to have, a working partnership for the handling of sexual assault cases and victims services. For contact information about resources in your area, call or e-mail Erin Osborne at DCJS, Victims Services Section, (804) 371-0386, or erin.osborne@dcjs.virginia.gov.

☑️ Local agencies are also strongly encouraged to develop protocols and agreements with their local hospital emergency departments, Forensic Nurse Examiners or Sexual Assault Nurse Examiners’ programs, or other medical facilities that handle sexual assault victim examinations in the development of their policy.

☑️ Agencies that utilize the Department of Forensic Science labs to process and analyze evidence in sexual assault cases are encouraged to verify that their local policy is congruent with guidelines established by DFS.

B. Training and Technical Assistance
For additional information and specific technical assistance based on your needs or professional role, please contact the most appropriate individual:

Law Enforcement Policies
DCJS is available to respond to local law enforcement agencies’ questions regarding developing policy for law enforcement. Contact Ernie O’Boyle at (804) 786-7811, or Ernie.Boyle@dcjs.virginia.gov, or Tim Paul at (804) 786-2407, or Tim.Paul@dcjs.virginia.gov.
Payment for PERKS
Training on billing and payment issues can be requested by contacting Kelly Carpenter at the Criminal Injuries Compensation Fund (CICF) at (800) 552-4007 or Kelly.Carpenter@vwc.state.va.us.

DCJS Victims Services
Contact Erin Osborne, Victim Services Analyst, at (804) 371-0386 or Erin.Osborne@dcjs.virginia.gov

Department of Forensic Science
Please contact the Department of Forensic Science for information relating to their services.

Virginia Chapter of the International Association of Forensic Nurses
Contact Sue Carson, President, at (804) 712-4992 or mcv4ren6rn@verizon.net.

Virginia Sexual and Domestic Violence Action Alliance
Contact Kristine Hall, Sexual Violence Advocacy Manager, at (434) 979-9002 or khall@vsdvalliance.org.
INFORMED CONSENT REGARDING ITEMS COLLECTED FROM SANE EXAM FOR NON-REPORTED SEXUAL ASSAULT CASES

I received a SANE Exam that included collection of items. I do not want to be interviewed at this time by law enforcement and I am not ready to file a police report at this time.

I have read and understand the following:
A. I will not be billed for the items collected.

B. I understand that the benefits of cooperating with law enforcement at this time include:
   a. Law enforcement will have an opportunity to collect evidence from the crime scene and from the suspect.
   b. Witnesses may be interviewed in a timely fashion.
   c. I may be eligible for Crime Victims Reparation Funds to pay for out-of-pocket expenses relating to this crime.

C. I understand that by delaying an interview and not filing a police report at this time, the following may occur:
   a. Evidence that would normally be collected by law enforcement will be permanently lost.
   b. Suspects and witnesses will not be interviewed and they may not be identifiable at a later time.
   c. It will be extremely difficult, if not impossible, for charges to be filed against the suspect if I delay filing a police report.

D. I understand that APD Scientific Evidence Division will hold the items collected from the SANE exam for one year (365 days) from the date of assault.
   a. If I decide to file a police report within the 365 days, it is my responsibility to call the APD Sex Crimes Sergeant at 924-6000 to file a police report.
   b. If I need more time to decide whether to file a police report, it is my responsibility to submit my request in writing, with explanation/reasons for my request, to the Commander of APD Scientific Evidence Division at 5350 2nd Street NW, Albuquerque NM 87107
   c. After one year from the date of assault, APD Scientific Evidence Division will dispose of items that were collected during the SANE exam without any further notification to me.

My signature below indicates my understanding of the details above and this document will serve as authorization for APD Scientific Evidence Division to dispose of items collected from the SANE exam after one year from the date of assault.

______________________________  ____________________  ____________________
Signed                     Date                   SANE Signature

PROCESS
Exhibit K – New Mexico Draft Informed Consent Form

- This form will be completed at the end of the SANE exam. Original kept with SANE with copy to the patient and copy attached to items collected by SANE exam. SANE will package items into one large brown bag with SANE Case # as patient identifier and attach a copy of this (with patient name/signature blacked out) to the brown bag.
A National Protocol for Sexual Assault Medical Forensic Examinations
Adults/Adolescents
3. Informed Consent

Recommendations at a glance for health care providers and other responders for requesting patients' consent throughout the exam process:

- Seek the informed consent of patients as appropriate.
- Be aware of statutes and policies governing consent in cases of minor patients, vulnerable adult patients, and patients who are unconscious or intoxicated.

Seek informed consent of patients as appropriate throughout the exam process. There are two essential but separate consent processes—one for medical evaluation and treatment and another for the forensic exam and evidence collection. Patients should understand the full nature of their consent to each procedure, whether it be medical or forensic (e.g., what the procedure entails, possible side effects, and potential impact). The only way to put patients in the position of being able to make informed decisions about whether to allow a procedure is by presenting them with all relevant information. Patients can decline any part or all of the examination. However, the informed consent process includes making patients aware of the impact of declining a procedure, as it may negatively affect the quality of care and the usefulness of evidence collection. It may also have a negative impact on a criminal investigation and/or prosecution both because evidence not collected may have been useful and because defense attorneys may use the fact that the victim declined a procedure to claim that the victim is hiding something that would have been revealed by that procedure. They should understand that declining a procedure might also be used by opposing counsel to discredit the victim at trial.

Health care providers and other responders must refrain from any judgment or coercive practice in seeking patients’ consent. It is contrary to ethical and professional practices to influence their decisions.

Seek both verbal and written consent as required by policy. In addition to verbally providing information and seeking consent throughout the exam process, written consent of patients may be needed in order to carry out specific procedures. It is important that jurisdictions, agencies, and exam facilities make it very clear to responders when written consent is necessary, how it should be sought, and provide appropriate checklists and forms to facilitate obtaining written consent in a consistent manner.

Methods to inform patients verbally and seek their consent vary significantly across jurisdictions and individuals requesting consent. For example, some examiners ask patients to voice their consent to each exam procedure while others explain from the start that they need patients to tell them if they want to stop at any time. While respecting the individual communication styles of responders, the process of obtaining consent can be enhanced when they are educated on how to seek verbal consent logistically in a way that is consistent across patients and helps facilitate the exam process as specified by the jurisdiction and facility.

Verbal and written information given to patients to facilitate the consent process should be complete, clear, and concise. This information, along with consent forms, should be tailored to the communication skill level/modality and language of patients. Responders should be aware of verbal and nonverbal cues from patients and adjust their methods of seeking consent to meet patients’ needs. Encourage patients to ask questions and to inform relevant responders if they need a break or information repeated or do not want a particular part of the exam process done. Make sure all signatures and dates needed are obtained on written consent forms and document consent or reasons for declining to consent as appropriate (either on the medical record or forensic report forms).

Seek consent for medical evaluation and treatment. Follow facility policy for seeking patients’ consent for medical evaluation and treatment. Any written medical consent forms developed for the purpose of the exam may need to be reviewed and approved by facility administration. Documentation on consent for medical evaluation and treatment becomes part of the medical record, not the forensic report. Informed consent of patients for medical evaluation and treatment typically is needed for the following:
• General medical care;
• Pregnancy testing and care;
• Testing and prophylaxis for STIs;
• HIV prophylaxis;
• Permission to recontact the patient for medical purposes; and
• Release of medical information.

Seek consent for the forensic exam and evidence collection. Follow jurisdictional procedure for obtaining informed consent for the exam and evidence collection. Informed consent of patients typically is needed for:

• Notification to law enforcement or other authority (depends upon reporting requirements);
• Photographs, including colposcopic images;
• The examination itself and evidence collection;
• Toxicology screening;
• Release of information and evidence to law enforcement;
• Permission to recontact patients for reasons related to their criminal sexual assault case; and
• Patient notification in case of DNA match or additional victims.

Responders should coordinate efforts to seek patients' consent. On a jurisdictional level, SARTs (or involved responders, if a SART does not exist) can identify all procedures where consent is needed during the exam process. They can make sure appropriate written consent forms are developed as well as procedures for requesting verbal and written consent. They should determine which responder has the knowledge needed to provide patients with information about each procedure and consider from whom patients might feel the most comfortable receiving this information. For example, while each responder may provide discipline-specific information to patients, advocates may provide a broad overview of all components of the exam process. Checklists that clarify discipline-specific roles in obtaining consent may be useful.

Make sure policies exist to guide seeking informed consent from specific populations. In order to provide informed consent, patients should be able to weigh the risks and benefits of different treatment and evidence collection options. It is always important for examiners to assess patients' ability and legal capacity to provide informed consent. Providers should be aware of jurisdictional laws governing the ability of specific populations to provide consent.

In addition, facilities should have internal policies based on applicable jurisdictional statutes governing consent for treatment of vulnerable adult patients. The medical provider will generally need to assess whether the patient has the cognitive capacity to give consent for the examination, and, if not, the provider should follow these internal policies and jurisdictional statutes. Policies should include procedures to determine whether or not patients are their own guardians; if there is a guardian, to determine the extent of the guardianship; to obtain consent from a guardian if needed; and what to do if the guardian is not available or is suspected of abuse or neglect. Exam facilities should also have policies in place to address consent for treatment in cases in which patients are unconscious, intoxicated, or under the influence of drugs, and are therefore temporarily incompetent to give consent.

In cases of adolescent patients, jurisdictional statutes governing consent and access to the exam should be followed. For instance, a State statute may allow minors to receive care for STIs and pregnancy, but not a medical forensic examination without parental or guardian consent. Exceptions to parental consent requirements also exist when the parent or guardian is the suspected offender or where the parent or guardian can't be found and the collection of evidence needs to be done quickly. In such cases, the law generally specifies who may give consent in lieu of the parent or guardian, such as a police officer, representative from the jurisdiction's children's services department, or judge.  

It should be clarified whether policies and statutes regarding consent for medical evaluation and treatment for the above populations encompass consent for the forensic component of the exam. If not, additional guidance from the jurisdiction is needed to develop the appropriate policies. Also, jurisdictional statutes regarding mandatory reporting to law enforcement or protective services in cases of vulnerable adult and minor sexual assault victims must be observed.

In all cases, the medical forensic examination should never be done against the will of patients. Responders should not touch patients or otherwise perform exam procedures without their permission.
VAWA Forensic Compliance Project
Survey Results: State STOP Administrators
Storage Location for Evidence Collected through “Anonymous” Kits
N=39

2 “Anonymous” Kits terminology used to encompass a variety of Evidence Collection Types (i.e. Blind; Anonymous; Jane Doe; Mandated, etc.)
3 “Varies” indicates procedures vary within the State and are contingent upon local law enforcement departmental policies. Also includes Respondents who indicated a combination of storage options (i.e. LE/Hospital).
VAWA Forensic Compliance Project
Survey Results: State STOP Administrators\(^1\)
Transportation Methods Utilized by States/Territories to Transfer “Anonymous” Kits to Storage Facility\(^2\)
N=33

\(^2\) “Anonymous” Kits terminology used to encompass a variety of Evidence Collection Types (Blind; Anonymous; Jane Doe; Mandated, etc.)
\(^3\) “Varies” indicates procedures vary within the State and include more than two options for transportation.
VAWA Forensic Compliance Project
Survey Results: State STOP Administrators
Length of Storage Time for Evidence Collected through “Anonymous” Kits
N=33

“Anonymous” Kits terminology used to encompass a variety of Evidence Collection Types (Blind; Anonymous; Jane Doe; Mandated, etc.)
“Varies” indicates procedures vary within the State and are contingent upon local law enforcement departmental policies.
VAWA Forensic Compliance Project
Survey Results: State STOP Administrators
Mechanism Used to Track “Anonymous” Kits
N=34

2 “Anonymous” Kits terminology used to encompass a variety of Evidence Collection Types (Blind; Anonymous; Jane Doe; Mandated, etc.)
3 “Varies” indicates procedures vary within the State and/or among hospitals.
POLICY

The Division of Police will maintain a secured property storage room to preserve any evidence or items that an officer takes possession of in accordance with Division Directives. All property shall be stored in accordance with this directive and before the end of the officer’s tour of duty. At times, officers may have a need to use weapons, controlled substances, or other items that are in evidence for training or investigative purposes and guidelines are essential in accounting for these items.

PROCEDURES

I. STORAGE PROCEDURES FOR PROPERTY/EVIDENCE

A. Reporting Procedures

1. No locker key shall be issued and no property/evidence shall be accepted for new evidence submissions by the Property Unit until an associated ICR is completed.

2. The Division member shall make a notation on the ICR of the key number and issuing Division member’s initials before a key will be issued.

B. Completion of Property Tags (DOP-025)

A Property Tag (DOP-025) shall be completed for all property/evidence taken into custody. The Property Tag shall be completed as listed below.

1. Print the nine digit ICR number for reported property/evidence in the corresponding box.

2. Print the two digit package number of the property/evidence. The package number is the two digit number assigned to each package of property/evidence associated with any one incident/crime.
   a. When determining a package number you must start with "01" and number sequentially for each property tag or package of property/evidence associated with the incident/crime.
   b. If more than one package of evidence is turned in as a result of the same incident, each package must be identified with a Property Tag.

3. A Property Technician will complete the storage location of the property, not the reporting officer.
4. Print your name and code number.

5. Check the appropriate box for the status of the property/evidence which must be the same as that listed on the ICR.

6. Check whether the listed person is the property owner or another person to whom the property/evidence can be released and list their name, address, and social security number. Property/evidence will be released only to person(s) listed on the tag.

7. Print a complete description for each item including the make, color, and serial number, if known.

8. The submitting officer will complete the "property disposition" block only when the property/evidence is ready for final disposition. The officer will check the recommended disposition, initial, and provide a date on which the property/evidence may be disposed or released.

C. Packaging Items

1. Officers shall first utilize a Property Evidence Envelope (DOP-027) for all evidence, size permitting. Property Evidence Envelopes are available at the evidence supply stations at Fair Oaks Station and PSB.
   
   a. Complete a DOP-025.
   
   b. Attach the Property Tag to upper right hand corner of the envelope or bag with a paper clip (do not staple or tape).
   
   c. Complete the pre-printed fields of the DOP-027.
   
   d. If the property/evidence is drugs, paraphernalia, or firearms that need to be destroyed, complete the appropriate block on the DOP-025.
   
   e. All packages will be sealed with evidence tape, initialed, and dated by the sealing officer.

2. Larger items should be placed in appropriate sized evidence bags, provided at the evidence supply stations at Fair Oaks Station and PSB.
   
   a. Complete a DOP-025.
   
   b. Attach the Property Tag to the exterior with a paper clip.
   
   c. Write the Property Tag number in large print on the bag.
   
   d. If items are drug contraband or paraphernalia to be destroyed, complete the appropriate block on the DOP-025.
3. For storage purposes, drugs, guns, and money shall be packaged separate and apart from all other packages.
   a. In the case of drugs, if several substances are being stored, each known substance shall be packaged separately.
   b. Attach a sticker labeled “DRUGS” to the front of any package containing drugs.

4. When the size or shape of an item makes it impractical to place in a bag (i.e. TV’s, stereos, computers, etc), attach the DOP-025 to the exterior of the item.

5. All small drugs, capsules and pills shall be placed in tamper-resistant protective packages prior to placing them in the DOP-027. In addition, all capsules and pills will be counted and the number noted on the DOP-027 prior to sealing.

6. All syringes shall be placed in a plastic syringe tube prior to packaging. A label stating “WARNING: Contains Sharp Objects” shall be attached to the front of any package containing a needle or syringe.

7. All packages of property/evidence will be inspected for tampering and proper packing by a Property Technician prior to being accepted.

D. Submitting Property/Evidence

1. Normal operating hours for the Property Unit are 0800-1600 hours Monday through Friday, except holidays.
   a. All packages of property will be submitted directly to an Evidence Technician. Lockers shall not be utilized during normal operating hours.
   b. Officers shall have a completed ICR and have the item ready to be submitted. The Evidence Technician will check the package, sign and date the ICR, and take custody.
   c. The Evidence Technician shall refuse to accept any package which does not meet packaging guidelines specified in this Directive.

2. After Hours Procedures
   a. Select the size locker most suitable for the item(s) and obtain the key from the Duty Officer at Fair Oaks Station or the Criminal Records Unit at PSB.
   b. Refrigerated lockers are available at PSB for PERK kits and other evidence that must be refrigerated to prevent decomposition.
   c. The Division member issuing the key shall complete a logbook entry noting the date the key was issued, their signature, locker key number, and the name of the officer receiving the key.
d. After placing the items in the locker and locking the door, the key will be placed in the opening marked "Key Slot" located:
   1) Fair Oaks Station- drop box on right side of evidence lockers.
   2) Public Safety Building - In locker #105.

e. Under no circumstances shall an officer maintain possession of an evidence locker key after depositing the evidence into a locker.

3. Item(s) to be reviewed and analyzed by the Forensic Unit will be turned into the Property Unit just as any other item.
   a. The investigating officer shall complete the Forensic Unit Examination Request Form (DOP-085B) and forward it by interoffice mail to the Forensic Unit or deposit the form in the mail slot located outside the Forensic Unit office at PSB.
   b. After the Forensic Unit completes the analysis of the item(s), the results of any analysis should be sent to the officer making the request. The item(s) should then be returned to the Evidence Room for storage.

II. CHECKOUT AND RETURN OF PROPERTY/EVIDENCE

A. Checking Out Property/Evidence

1. The submitting officer, follow-up officer, AFIS investigator, technology crimes investigator, or forensics investigator may checkout property/evidence from the Evidence Room as needed for court, forensic examinations, laboratory analysis, or any other investigatory purposes.

2. Officers needing to checkout property/evidence shall notify the Property Unit no less than 24 hours prior to the date the evidence is needed. This notification shall be made utilizing a format in the Division Mainframe system. At the PMOI> prompt, type TAGMENU and select menu selection number 14.

3. Division members receiving property/evidence shall print their name, the reason the property/evidence is removed from evidence room, and the date and time of release in the Evidence Tracking Log (DOP-166A). When the property/evidence is returned to the Evidence Room, the officer returning the property/evidence will sign the date and time of return in the Evidence Tracking Log.

4. Officers who have a need for the use of evidence for training or investigative purposes shall:
   a. Submit a written request, with endorsements through the Chain-of-Command, to the Chief of Police stating the need for the evidence (i.e. – training aid for academy, educational display, etc.).
b. Submit a written request to, and receive an endorsement/statement from a Commonwealth’s Attorney’s representative, allowing the use of the evidence, as it is no longer of use by the Commonwealth, and for the purpose stated.

c. State that the evidence will be controlled by a knowledgeable individual, for example, a narcotics officer in the case of drugs. Only trained bomb technicians are to use explosive materials.

d. State if any of the evidence will be returned to the Property Unit or whether it will be destroyed.

e. Upon receipt of a signed memorandum by the Chief of Police, the Property Technician will release the affected package to the officer. The original memorandum will be maintained by the Property Unit.

f. Submit a report to the Commander, Property Unit stating the outcome of the use of the evidence. This should be corroborated or endorsed by a second person.

B. Returning Property/Evidence

1. Property/evidence that is checked-out by an officer shall be immediately returned after court, forensic examinations, laboratory analysis, or any other investigatory purposes.

2. If property/evidence is to be returned after operating hours of the Property Unit, the property shall be secured in an evidence locker at the Public Safety Building.

III. COURT RETENTION OF PROPERTY/EVIDENCE

A. If the property/evidence is retained by the General District, Juvenile Domestic Relations or Circuit Court, the officer must complete a Court Retained Evidence Receipt (DOP-130H).

B. Upon completion of the DOP-130H the officer shall:

1. Give the clerk of the court of jurisdiction a copy of the receipt.

2. Hand deliver immediately to the Evidence Room a copy of the DOP-130H and sign the Final Disposition block on the DOP-025. If the Evidence Unit is closed, the officer must respond to the Evidence Unit the next day assigned to work to complete the property tag.

3. The officer shall place the original of the DOP-130H in the case file. If a case file was not initiated, the officer will keep the original in his personal case file.
IV. PROPERTY/EVIDENCE SUBMITTED TO VIRGINIA DEPARTMENT OF FORENSIC SCIENCE

A. Officers submitting property/evidence to the Virginia Department of Forensic Science (State Lab) shall complete a Request for Laboratory Examination (DGS-70-001) and submit the package(s) to the lab promptly, to allow sufficient time for examination. Officers shall pick-up all evidence from the State Lab within fifteen (15) days of all examinations being completed.

B. Officers submitting property/evidence to laboratories other than the State Lab or Forensic Unit shall maintain a record of the name of the officer last having custody of the evidence, the date of submission, the method of delivery, the date of receipt in the lab, and the name/signature of the person in the lab receiving the evidence.

V. SPECIAL PROPERTY CONSIDERATIONS

A. Explosives, Flammable or Hazardous Materials

At no time will flammable fuel or explosive material be brought into the Evidence Room.

1. Explosives shall be turned over to an E.O.D. Technician and a DOP-025 will be completed by the officer and forwarded to the Evidence Room for record purposes.

2. The officer taking the report will place any items containing flammable fuels within the fenced area at the Police Storage Lot.

   a. Before the item is placed within the facility, all fuel should be removed from the item (except for motorcycles in which fuel should remain in the fuel tank).

   b. The officer shall contact the Division of Fire, if their assistance is required in properly disposing of the fuel. A completed Property Tag shall be placed in the drop box.

B. Vehicles

1. Cars, trucks, and other motor vehicles which are taken into custody in accordance with State Codes or County ordinances for further investigation or as evidence shall be stored in the Police Storage Lot at the Central Maintenance Facility, unless Forensic Unit personnel, a Midnight CIS investigator, or a CIS supervisor have been contacted and authorize the vehicle to be stored in the Forensics Lot. No vehicle shall be placed in the Forensic Building unless specifically authorized by Forensic Unit personnel.

   a. Officers shall follow the procedure outlined in LP-10 (Vehicle Towing) and also comply with the instructions contained in this Directive.

   b. Only authorized personnel are allowed access to the Forensic Building/Lot in order to facilitate the storage of evidence in this area.
PROPERTY PROCEDURES RP-02-08

c. Only Evidence Technicians or officers receiving permission from the Evidence Technician may release vehicles from the Police Storage Lot.

d. Property Technicians will not release property from vehicles stored in the Police Storage Lot. Property owners must contact the investigating officer for such releases.

e. At no time will property believed to be stolen be stored in seized vehicles.

2. Motorcycles and any other two wheeled vehicles taken into custody by Division members for further investigation, as evidence, or in accordance with County Code 22-301 will be stored in the Police Storage Lot, unless Forensic Unit personnel have been contacted and authorize the vehicle to be stored in the Forensics Building. The following procedures shall be followed:

a. Small "dirt bikes," "mini-bikes," or mopeds should be transported in a Division pick-up truck.

b. All other motorcycles and even small "motorized bikes," when officer safety may be jeopardized or the Division pick-up truck is not available, should be transported to the Police Storage Lot via closest approved wrecker.

c. If a motorcycle is taken into custody in accordance with County Code §22-301, the officer will complete an additional DOP-25 to serve as a receipt for the owner. Only the incident number, officer’s name and description of the motorcycle should be listed. The officer should mark through the remaining space provided on the Property Tag.

3. To obtain access to the Police Storage Lot:

a. Obtain the key to the lot from the Receptionist Desk in the lobby of PSB before 1630 hours (after 1630 hours, obtain key from the Criminal Records Unit).

b. Deactivate the alarm, unlock the gate, and place the items within the fenced area in such a manner as to not interfere with the perimeter alarm beams.

c. Bicycles and lawnmowers are to be secured with the provided bike rack and/or chains within the fenced area to the left of the storage lot gate. Obtain a weather resistant tag from the drop box, write the ICR number and package number on the tag, and attach the tag to the item. Place the completed DOP-025 within the drop box.

d. Lock the gate, reset the alarm, and immediately return the key to the location from which it was issued.
C. License Plates

Found or recovered license plates should not be entered as evidence, but should be delivered to DMV by the officer.

D. Bicycles

1. Officers submitting found or recovered bicycles for which the owner is unknown shall mark the DOP-025 for auction 30 days from the date of submission.

2. The reporting officer is responsible for transporting found or recovered bicycles to the Police Storage Lot and to notify the Property Technicians of this storage. Fleet Management will make every effort to provide a vehicle for that purpose during normal working hours.

3. Under no circumstances will citizens reporting "found" bicycles be advised by an officer that they may claim bicycles at a later date. Citizens expressing an interest in found bicycles shall contact a Property Technician, who will advise the citizens of the release procedures as set forth by Code of Virginia §15.2-1720.

E. Firearms

1. All firearms shall be examined in accordance with G-33 (NIBINS Firearms Examination and Retention).

2. No loaded firearms shall be submitted into the Evidence Room or the Forensic Unit.
   a. If the firearm was used in a crime, a Forensic Investigator should be called upon to unload the weapon.
   b. If a firearm cannot be unloaded due to malfunction or age, a Range Officer or Forensic Investigator shall be called.
   c. If a firearm is found in water, it should be maintained in water and a Forensic Investigator should be called.

3. Except for firearms turned over for destruction, officers shall not confiscate or take custody of any firearm unless formal charges are placed, the firearm is found, the firearm is to be used in a criminal investigation, or the firearm is turned over for destruction.

4. Firearms turned over for destruction by citizens shall be accompanied by a copy of an ICR signed by the citizen stating that they own the firearm (or that the owner is unknown) and wishes for it to be destroyed.
F. Special Handling of Confiscated Currency

1. All confiscated money will be counted and verified in front of the person from whom the money is taken, if practical.

2. If a Division receipt is given to the suspect at a different time than the initial count, the confiscated money will be counted again in front of the suspect prior to the receipt being issued and signed by the officer, suspect, and a witness.

3. The confiscated money will be placed in a plastic evidence pouch and sealed. All money will be packaged separate from any other seized evidence to be forwarded to the Property Unit.
   a. The arresting officer and a second officer each shall count the money to verify the amount confiscated.
   b. In instances where a large sum of money needs to be counted, a counting machine will be available for an officer’s use at PSB in the evidence supply station. The key for the locker storing the counting machine will be available from the Criminal Records Unit.

4. If the evidence envelope containing money is opened for court, a recount and verification of the money shall be made prior to the resealing of evidence pouches.

5. The officer is responsible for the final disposition of all funds after the case has been adjudicated.

G. Anonymous PERK

1. Any officer responding to an area hospital to receive an anonymous PERK submission shall treat the PERK as evidence of a crime.

2. An ICR shall be completed for each PERK that is submitted. Officer should place ANONYMOUS PERK in the offense type. In the narrative the officer should state: “Anonymous submission of a PERK in Henrico County.” The responding officer shall receive the kit from the appropriate forensic nurse or doctor at the facility, noting that person’s information in the ICR as the reporting person. In the Name slot under victim, only the unique identification number on the PERK should be listed. The officer should list themselves as the follow up officer on all anonymous PERK submissions.

3. The officer shall immediately respond to package the PERK as evidence and place it in property or the appropriate refrigerated storage container.

4. The officer’s supervisor shall set the review date for that ICR as 11 months from date of submission. When the officer is notified that a follow-up is needed for any anonymous PERK, he shall immediately notify the reporting person on the ICR that the kit will be destroyed in 31 days. The officer shall instruct the reporting person to notify the victim and reference the ICR number and unique identification number on the PERK.
5. The officer shall then submit an addendum to the original ICR noting the date and time he notified the reporting person. 31 days after notification of the reporting person, but no less than 1 year and 1 day from the date the PERK was submitted, the officer shall mark the PERK for destruction.

H. 19.2-10.1 Records

Virginia code section 19.2-10.1 require that the officer or investigator, once the investigation is complete, submit to the court to be sealed any financial documents received under the authority of that Code section. In order to insure that the original records are preserved intact, the following procedure shall be utilized:

1. The investigator or officer shall make one copy of all documents received under authority of 19.2-10.1, along with a copy of the order authorizing the issuance of the subpoena duces tecum. The original documents and the copy of the order shall be placed in the evidence/property room. The original documents and the copy of the order shall remain in evidence until needed for trial or to be sealed upon completion of the investigation.

2. The investigator or officer shall mark each page of the copied documents with the notation "10.1" and work from the copies, NOT the original. This will insure that 10.1 documents will remain intact and can be readily identified and distinguished from documents received by consent, the Multi Jurisdictional Grand Jury, 19.2-76.1, 19.2-272, or other sources.

3. If the copied documents are voluminous, or additional documents are anticipated in the investigation, the investigator or officer shall sequentially number the copied documents.

4. If other persons need access to documents received under 19.2-10.1, the investigator or officer shall make duplicates from the copied documents that have been marked "10.1", NOT the original documents.

5. Once the investigation is complete, the investigator or officer shall coordinate with the Commonwealth’s Attorneys Office to submit the records to the court to be sealed.

VI. DISPOSITION OF PROPERTY/EVIDENCE

A. Check the appropriate box in the property status, drugs, reason for destruction, and property disposition block (if applicable).

B. Drugs/Paraphernalia/Guns

Obtain and submit an Order and Certificate of Destruction of Controlled/Confiscated Items (DC-367) order to the Commonwealth Attorney’s Office after the case has been adjudicated.
C. Other Property/Evidence

1. After the court case has been completed and the appeal time has passed, the officer must release the property/evidence to the rightful owner unless otherwise directed by the court.
   a. The submitting officer shall respond to the Evidence Room to change the Property Tag to allow the release.
   b. Once the officer has made the appropriate documentation on the DOP-025 indicating the release of the listed property, the owner will be instructed that he may respond to the Property Unit to retrieve his property.
   c. Property/evidence may be released only to individuals noted on the DOP-025.
   d. It is the officer’s responsibility to identify, and locate the owner of the recovered property/evidence and direct them to the Evidence Room.
   e. If the officer personally releases property to the owner, the officer must deliver a copy of the Property Receipt (DOP-052) to the Evidence Room within five (5) working days.

2. If the submitting officer cannot locate the known owner after 60 days, he shall respond to the Evidence Room to change the DOP-025 for proper disposal of the item(s).

3. If the owner of the property/evidence is unknown, the submitting officer shall mark the DOP-025 for destruction 60 days from the date of submission.

4. Hours for property/evidence (with the exception of vehicles) to be released are 0900-1500, Monday through Friday, excluding holidays. Property owners should be advised to contact Property Technicians before responding to pick-up their property/evidence.

5. Vehicles will be released only after the person listed on the DOP-025 contacts the Property Unit to make an appointment.

6. Under no circumstances shall citizens reporting "found" property be advised by an officer that they may claim that property at a later date. Citizens expressing an interest in found property shall be advised to contact a Property Technician for information.

7. Inmates requesting property must provide the Property Technician with a notarized letter authorizing the release of their property to another individual.
   a. The letter must include the name of the inmate and his representative and a description of the property. The Property Technician will retain the notarized letter.
b. Prior to the release of property, the inmate representative must produce a state issued picture ID card.

VII. INSPECTION AND ACCESS

A. The Inspections Unit will conduct an annual inventory of property and evidence stored in the Property Unit.

B. The Chief of Police will ensure that an unannounced inspection of the Property Unit occurs no fewer than twice annually.

C. Only authorized Division personnel are allowed in the Evidence Room. Such authorization shall be approved by the Chief of Police or his designee. Visitors will sign in on a log sheet and be escorted at all times by a Division member. Visitors not having specific business to enter into the property storage areas (i.e. - building maintenance, inspections, etc.) will only be allowed in the foyer of the Property Evidence Room.

VIII. PROPERTY/EVIDENCE DATA ENTRY

A. Division of Police Property/Evidence System

1. The ICR’s received each day shall be reviewed and any report that lists stolen, recovered, lost, found or confiscated property and evidence is to be entered into NCIC/VCIN and the ICR system by the Criminal Records Unit personnel.

2. It shall be the Criminal Records Unit’s responsibility, based on the available information, to report to the assigned officer any matched property in the ICR system when an automatic match occurs.

B. VCIN/NCIC

1. Routine Entry (item which can wait up to 72 hours before entry)

   a. Routine VCIN/NCIC entries will be made by the Criminal Records Unit from the ICR or Addendum. Items cannot be entered unless all required elements about the property have been recorded on the ICR.

   b. Whenever recovered property is matched in the ICR system, the Criminal Records Unit will remove the property as stolen from VCIN/NCIC.

2. Immediate Entry

   a. Communications personnel shall enter into VCIN/NCIC system, certain non-routine, "hot" items, such as:

      1) Stolen vehicles
      2) Firearms (emergency)
      3) License plates
PROPERTY PROCEDURES RP-02-08

b. After Communications has entered an item of property and the system has confirmed and assigned the NCIC number, they shall make a hard copy for the Criminal Records Unit. Communications shall send all copies of messages pertaining to stolen or recovered property to the Criminal Records Unit.

c. Communications will assign the OCA as being the month, day, year and last 3 digits of the police officer’s ID code. The assigned time and victim’s name will be noted in the miscellaneous field.

d. An entry will be made by Communications into VCIN/NCIC only if the officer supplies the required elements contained on the ICR.

C. Property Technician Procedure

1. As item(s) of property/evidence are received by the Property Unit, the Property Unit shall enter the information on the Property Tags into the automated system.

2. In addition to the information on the tag, the Property Unit shall code the tag with its storage location and enter that data as well.

3. When property/evidence is checked out of the Property Room, the receiving officer will record the following in the Evidence Tracking Log:

   a. The date and time of checkouts;

   b. The receiving officer's name and functional responsibility;

   c. The reason for the check out, including the name of a laboratory if being sent outside of the Division for analysis.

4. When the property/evidence is returned, the returning officer shall note the return date and time in the Evidence Tracking Log and return the item(s) of property/evidence to storage.

IX. PROPERTY/EVIDENCE REVIEW

A. To ensure that final disposition of property/evidence has occurred within six months of all legal requirements being met, the Property Unit Commander will forward a property/evidence printout to each Section Commanding Officer/Unit Commander.

B. The printout will list by name and code number each member who has property/evidence logged into the Evidence Room files.

C. Each Section Commanding Officer/Unit Commander will ensure that all members listed on the printout respond to the Evidence Room to review/purge unneeded property/evidence from the files. This shall be accomplished within the time period indicted on the cover letter from the Major, Support Operations.
D. At the end of the indicated time period, the appropriate Section Commanding Officer/Unit Commander shall be notified of any Division member who has not responded to the Property Unit and complied with the purge request.

E. After all personnel in each Section/Unit have removed/purged their property/evidence, the Section Commanding Officer/Unit Commander will in writing notify the Major, Support Operations that all affected personnel have complied with the purge request.

By Order of:

Colonel H. W. Stanley, Jr.
Chief of Police
MEMORANDUM

Date: June 25, 2008

To: All JCCPD Officers
Records Management
Property Control
Central Dispatch
W/JCC Commonwealth Attorney Office

From: Deputy Chief Stan Stout

Subject: Anonymous Sexual Assault Physical Evidence Recovery Kit (PERK) Examination Procedures.

Reference: Virginia Code 19.2-165.1(B)
Virginia Code 19.2-368.3
Virginia Code 19.2-368.11:1(F)
JCCPD PPO 500 Criminal Investigations
JCCPD PPO 503 Collections & Preservation of Evidence
JCCPD PPO 603 Property Management

1. Per 19.2-165.1(B) of the Code of Virginia, effective July 1, 2008, an adult victim of an alleged sexual assault is no longer required to report this offense to law enforcement in order to request a forensic examination, or for the Commonwealth to pay for the examination.

2. The following procedures will be implemented:

   a. Medical facilities conducting the anonymous PERK examinations will make a reasonable effort to determine the jurisdiction of the sexual assault and then notify the appropriate law enforcement agency. We anticipate having these kinds of issues when it comes to James City County, Williamsburg, and York County. The medical facilities may confer with Central Dispatch and / or the on-duty Patrol Supervisor in making that determination. However, if called, we do not want to get into long debates, discussions, or arguments concerning the jurisdiction. The key is to simply take control of the PERKs expeditiously as possible. If the victim wants to pursue criminal charges sometime in the future, we will deal with the jurisdiction issue at that time.

   b. Upon receiving a call from a medical facility that they have an anonymous victim PERK kit to be picked up:

      i. An officer will be dispatched to the medical facility as soon as possible to retrieve the PERK Kit. The officer shall note from whom they retrieved
the PERK Kit as well as the PERK number, date, time, location that it was retrieved.

ii. If the medical facility is outside the Richmond and Hampton Roads areas, the patrol supervisor may notify the law enforcement agency where the medical facility is located and ask them if they would go to the medical facility and retrieve the PERK and place it in their Evidence – Property Control. The patrol supervisor would still cause to have an IBR report completed in accordance with the guidance below.

c. An Investigator does not need to be notified.

d. The Officer shall complete an Evidence Property Control Sheet and place the PERK into the Property Control (Refrigerator) as soon as possible.

e. The officer will complete an IBR report. The officer will use the following guidance:

   i. Victim Last Name: PERK
   ii. Victim First Name: the number of the PERK
   iii. Race: unknown
   iv. Age: 12 - 99
   v. Loc of the off: 5087 John Tyler Hwy
   vi. Offense Type: sexual assault
   vii. Offense Code: 11A
   viii. Weapon Used: hands / personal
   ix. Loc Type: other
   x. Complainant: the name of the nurse
   xi. Involved Other: name of medical facility
   xii. Property Code: code 77
   xiii. Property Type: PERK
   xiv. Property Status: evidence
   xv. Clearance: admin

f. The report narrative shall be written as follows:

   “Officer __office's name__ was dispatched to Name of Medical Facility on / or about __Date / Time__ to retrieve an Anonymous Victim Sexual Assault PERK Examination. Sexual Assault Nurse Examiner (SANE) __Name of Nurse__ completed the examination on / or about __Date / Time__. Officer __officer's name__ received PERK __number__ from __the name, title, and position of the person handing over the PERK to the Officer__ at __Date / Time__. Officer
3. JCCPD will maintain these PERKs indefinitely. The PERK box may have affixed to its bottom a sealed envelope containing the SANE’s notes.
   a. The PERK shall remain refrigerated for a period of 30 days.
   b. After 30 days, the PERK may be placed on a shelf unrefrigerated.
   c. If the victim comes forward and decides to pursue criminal charges, the assigned investigator may remove the sealed envelope from the PERK’s box and review the content prior to sending the PERK to the forensic laboratory.
Exhibit R – Virginia – James County Law Enforcement Policy:
Anonymous Sexual Assault PERK Exam Procedures
SPECIAL ORDER NO. 55-0407

TO: All North East Barrack “F” Personnel

SUBJECT: Processing Hospital Calls Reporting “Jane Doe” Victims of Sexual Assaults and Transportation and Storage of Evidence Related to Such Incidents

PURPOSE

A. To establish policies and procedures for receiving and handling alleged sexual assault cases, whereby the victim is identified as “Jane Doe”, for confidentiality purposes by hospital personnel. Under this program it affords the alleged victims of sexual assault the opportunity to have evidence collected, via a sexual assault forensic examination, and have it submitted to the appropriate law enforcement agency, even though they do not wish to report the alleged sexual assault to the police at the time of the collection.

B. This policy will address:

1. The handling and processing of physical evidence collected from the “Jane Doe” victim by a certified “Forensic Nurse Examiner” (FNE) at Union Hospital in Elkton, Maryland.

2. The release of evidence which may include victim’s clothing, along with other forensic evidence collected from the victim.

3. The evidence:
   a. Which may include fingernail scrapings, head and pubic hair samples, DNA and any other physical evidence observed and collected by a certified “FNE” at Union Hospital.
   b. Which will be contained in a sealed Maryland State Police (MSP) “Victim Sexual Assault Evidence Collection Kit” and released to the custody of a trooper assigned to such an incident.
   c. Which will be transported to the North East Barrack and processed according to established policies and procedures.

"Maryland’s Finest"
SPECIAL ORDER: 55-0407

MARYLAND STATE POLICE

(Cont’d)

SUBJECT: Processing Hospital Calls Reporting “Jane Doe” Victims of Sexual Assaults and Transportation and Storage of Evidence Related to Such Incidents

POLICY

A. Effective October 15, 2004 “The Jane Doe Program,” regarding the victims of sexual assaults will become operational in Cecil County.

B. A “Jane Doe” victim:

1. Is defined as a victim of a sexual assault who wants to remain anonymous and does not wish to disclose to police any information concerning the offense.

2. Will still be afforded the opportunity to respond to the emergency room at Union Hospital for the purpose of receiving a “Forensic Nurse Examination,” treatment and counseling for the sexual assault.

3. Will disclose to the “FNE,” in confidence, information concerning the particulars of the offense to include date, time, location and the name and/or description of the alleged suspect.

C. A confidential report, containing the information obtained from the victim, will be completed by the FNE and maintained in a sealed confidential file at Union Hospital.

D. A “Forensic Nurse Examination” will be conducted on the victim to document any trauma and verify a sexual assault has occurred.

E. The “FNE” conducting an examination will utilize an MSP “Victim Sexual Assault Evidence Collection Kit” to collect any and all forensic, DNA, samples from the victim.

F. The hospital staff will assign a hospital case/file number to the evidence that will be marked “Jane Doe” case.

G. A report of the incident will be maintained in a confidential file by the hospital. The victim has three (3) months to decide whether to proceed with having the offense investigated by the appropriate law enforcement agency.

H. If the victim elects to pursue the case, the victim will notify Union Hospital which will, in turn, make the necessary arrangements for the victim to meet with the appropriate law enforcement agency.

I. Information obtained by the hospital, which was disclosed by the victim, will be provided to the law enforcement agency.

J. In the event the victim does not pursue the matter within the three (3) month period, Union Hospital will send a letter to the Maryland State Police, Criminal Investigation Section Supervisor, 2433 Puleaski Highway, North East, Maryland 21901-2799.
STATE OF MARYLAND  
MARYLAND STATE POLICE

SPECIAL ORDER: 55-0407

SUBJECT: Processing Hospital Calls Reporting "Jane Doe" Victims of Sexual Assaults and Transportation and Storage of Evidence Related to Such Incidents

K. This letter will serve:

1. As an official notice that the victim in the referenced "Jane Doe" case has elected not to pursue the matter within the allotted time frame.

2. As written authorization for the MSP to destroy the rape collection kit associated with this particular case. NOTE: The three (3) month period begins when the victim reports to the emergency room for examination, treatment and counseling.

PROCEDURES

A. Upon the barrack receiving a call from a hospital emergency room regarding a "Jane Doe" evidence kit, the duty officer will open a complaint control card listing the hospital employee as the caller.

B. The card will be coded "68" Miscellaneous, with a notation in the remarks section: "Jane Doe" case.

C. The hospital file/case number will be obtained by the duty officer from the hospital employee/caller and this number will be listed in the remarks section of the complaint control card.

D. A trooper will be dispatched to the hospital to obtain the sexual assault evidence collection kit with the attached hospital form listing the hospital case/control number.

E. The assigned trooper will also be provided with the MSP complaint control number.

F. Upon arriving at the hospital, the trooper:

   1. Will obtain the name, title and telephone number of the person from whom the evidence is obtained.

   2. Will note the date, time and sign the hospital chain of custody logbook in order to maintain the "chain of custody."

   3. Will provide the hospital representative with the MSP complaint control number for the hospital file.

G. The trooper dispatched to the hospital will:

   1. Upon receiving the evidence from the "FNE," transport the evidence to the North East Barrack.

   2. Upon arriving at the barrack, the trooper will complete a chain of custody log MSP Form 87. This form will contain the complaint control number and the hospital case/control
SPECIAL ORDER: 55-0407

STATE OF MARYLAND
MARYLAND STATE POLICE

SUBJECT: Processing Hospital Calls Reporting “Jane Doe” Victims of Sexual Assaults and Transportation and Storage of Evidence Related to Such Incidents

number. The victim will be listed as “Jane Doe” and the offense will be listed as “Sexual Assault.”

3. Ensure a copy of the complaint control card is attached to the chain of custody form. The property held number will be left blank.

H. The evidence will be placed into the evidence vault/or temporary evidence storage locker.

I. Upon the Detective Sergeant or his/her designee processing the evidence, a local trace tracking number will be assigned to the evidence and the trace number will also be entered in the trace evidence Property Log (Form MSP 99).

J. The evidence:

1. Will be stored separately in the property room; and

2. Will be retained until such time the victim elects to pursue the matter with the MSP within the three (3) month period.

K. No report will be initiated until the victim elects to have the incident investigated by the MSP and it is within the three (3) month period.

L. If notified within this period, a criminal investigation will be initiated and the appropriate criminal investigation report, capturing all aspects of the incident, will be prepared.

M. The original complaint control number will serve as the official case number for the purpose of completing the Criminal Investigation Report (CIR) and all corresponding reports associated with this particular incident.

N. This policy does not apply to cases where the victim is under the age of eighteen (18) and the alleged sexual assault involves a parent, family member, household member or other person who has permanent or temporary care and or custody or has the responsibility for the supervision of a minor child. For such cases, it is mandated by law that these cases be reported to the Department of Social Services/Child Protective Services and the appropriate law enforcement agency for investigation.

This order supersedes all orders and memoranda in conflict therewith.

Gerald M. Kreiner, Captain
Commander, Barrack “F”
Maryland State Police

GMK/INP/jnp
PURPOSE:

To provide alleged victims of sexual assault the opportunity to have evidence collected via a sexual assault forensic examination and submitted to the appropriate law enforcement agency even though they do not wish to report the alleged sexual assault to the police at the time of collection.

POLICY:

Union Hospital complies with Maryland law that forensic nurse examiners perform sexual assault forensic examinations on alleged victims of sexual assault when the victim is seen within 120 hours of the sexual offense and a police report has been filed with the appropriate law enforcement agency. Through cooperation with the Cecil County State’s Attorneys Office, the Maryland State Police, the Cecil County Sheriff’s Department, and other local police agencies, Union Hospital also will give alleged victims of sexual assault who have not reported the matter to the police and do not wish to do so at the time of examination and collection a complete sexual assault forensic examination and submit the sexual assault evidence collection kit to the appropriate law enforcement agency in accordance with the procedures set forth below.

SKILL LEVEL:

Forensic Nurse Examiner

EQUIPMENT:
The Jane Doe Program (Continued)  

I, ________________, am a participant in Union Hospital’s “Jane Doe Program” and am not making a police report at this time. The Hospital has received a “Jane Doe” case number from the police and will be submitting the sexual assault evidence collection kit to the police with all personally identifying information under seal. I understand that the police copy of this form is to be kept in a sealed envelope which is to be opened only in the event I report the alleged sexual assault to the police. The foregoing authorization for the release of personally identifying medical information to the police shall not take effect unless and until I report the alleged sexual assault to the police. Moreover, the release of personally identifying medical information to DHMH is being made for reimbursement purposes only.

6. Sufficient information regarding the victim that will permit the Hospital to link the victim’s name, medical record, and police case number, will be recorded in a special “Jane Doe” Program Logbook found in a secure locked file cabinet in the SAFE Office of Union Hospital.

7. The victim will be given supplemental discharge instructions (see attached) that include the case number, police agency, and the FNE name. It will also inform the victim that she has 90 days to make a police report, and that after 90 days the evidence will be destroyed.
A bill to be entitled
An act relating to crime victims; amending s. 960.001,
F.S.; providing that alleged victims of sexual offenses
shall not be required to submit to a polygraph or other
truth-telling examination as a condition of proceeding
with the investigation of such an offense; providing that
refusal of the alleged victim to submit to such
examination does not preclude investigation, charging, or
prosecution of the alleged offense; providing for the
presence of victim advocates during forensic medical
examinations; amending s. 960.003, F.S.; requiring that
HIV testing of certain defendants be ordered within a
specified period; amending s. 960.03, F.S.; revising the
definition of "crime" for specified purposes; amending s.
960.28, F.S.; revising provisions relating to payment of
initial forensic examinations of alleged victims of
certain sexual offenses; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (t) and (u) are added to subsection
(1) of section 960.001, Florida Statutes, to read:
960.001 Guidelines for fair treatment of victims and
witnesses in the criminal justice and juvenile justice
systems.--
(1) The Department of Legal Affairs, the state attorneys,
the Department of Corrections, the Department of Juvenile
Justice, the Parole Commission, the State Courts Administrator
and circuit court administrators, the Department of Law
Enforcement, and every sheriff's department, police department,
or other law enforcement agency as defined in s. 943.10(4) shall
develop and implement guidelines for the use of their respective
agencies, which guidelines are consistent with the purposes of
this act and s. 16(b), Art. I of the State Constitution and are
designed to implement the provisions of s. 16(b), Art. I of the
State Constitution and to achieve the following objectives:
(t) Use of a polygraph examination or other truth-telling
device with victim.—No law enforcement officer, prosecuting
attorney, or other government official shall ask or require an
adult, youth, or child victim of an alleged sexual battery as
defined in chapter 794 or other sexual offense to submit to a
polygraph examination or other truth-telling device as a
condition of proceeding with the investigation of such an
offense. The refusal of a victim to submit to such an
examination shall not prevent the investigation, charging, or
prosecution of the offense.
(u) Presence of victim advocates during forensic medical
examination.—At the request of the victim or the victim's
parent, guardian, or lawful representative, a victim advocate
from a certified rape crisis center shall be permitted to attend
any forensic medical examination.
Section 2. Subsection (2) of section 960.003, Florida
Statutes, is amended to read:
960.003 HIV Human-immunodeficiency virus testing for
persons charged with or alleged by petition for delinquency to
have committed certain offenses; disclosure of results to
victims.--

(2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION
FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.--

(a) In any case in which a person has been charged by
information or indictment with or alleged by petition for
delinquency to have committed any offense enumerated in s.
775.0877(1)(a)-(n), which involves the transmission of body
fluids from one person to another, upon request of the victim or
the victim's legal guardian, or of the parent or legal guardian
of the victim if the victim is a minor, the court shall order
such person to undergo HIV testing within 48 hours of the court
order.

(b) However, when a victim of any sexual offense
enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at
the time the offense was committed or when a victim of any
sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.
825.1025 is a disabled adult or elderly person as defined in s.
825.1025 regardless of whether the offense involves the
transmission of bodily fluids from one person to another, then
upon the request of the victim or the victim's legal guardian,
or of the parent or legal guardian, the court shall order such
person to undergo HIV testing within 48 hours of the court
order. The testing shall be performed under the direction of the
Department of Health in accordance with s. 381.004. The results
of an HIV test performed on a defendant or juvenile offender
pursuant to this subsection shall not be admissible in any
criminal or juvenile proceeding arising out of the alleged
offense.

Section 3. Subsection (3) of section 960.03, Florida
Statutes, is amended to read:

960.03 Definitions; ss. 960.01-960.28.--As used in ss.
960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(a) A felony or misdemeanor offense committed by either an
adult or a juvenile which results in physical injury or death.
The term also includes any such criminal act which is committed
within this state but which falls exclusively within federal
jurisdiction.

(b) A violation of s. 316.193, s. 316.027(1), s.
327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in
physical injury or death; however, no other act involving the
operation of a motor vehicle, boat, or aircraft which results in
injury or death shall constitute a crime for the purpose of this
chapter unless the injury or death was intentionally inflicted
through the use of such vehicle, boat, or aircraft or unless
such vehicle, boat, or aircraft is an implement of a crime to
which this act applies.

(c) A criminal act committed outside of this state against
a resident of this state which would have been compensable if it
had occurred in this state and which occurred in a jurisdiction
state that does not have an eligible crime victim compensation
program as the term is defined in the federal Victims of Crime
(d) An act of mass violence or an act of international terrorism, as defined in 18 U.S.C. s. 2331, which is committed outside of the territorial boundaries of the United States upon a resident of this state, when such act results in physical injury or death and the person is not eligible for compensation under Title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Section 4. Subsection (2) of section 960.28, Florida Statutes, is amended to read:

960.28 Payment for victims' initial forensic physical examinations.--

(2) The Crime Victims' Services Office of the department shall pay for medical expenses connected with an initial forensic physical examination of a victim of sexual battery as defined in who reports a violation of chapter 794 or a lewd or lascivious offense as defined in chapter 800 to a law enforcement officer. Such payment shall be made regardless of whether or not the victim is covered by health or disability insurance and whether the victim participates in the criminal justice system or cooperates with law enforcement. The payment shall be made only out of moneys allocated to the Crime Victims' Services Office for the purposes of this section, and the payment may not exceed $500 $250 with respect to any violation. Payment may not be made for an initial forensic physical examination unless the law enforcement officer certifies in writing that the initial forensic physical examination is needed to aid in the investigation of an alleged sexual offense and that the claimant is the alleged victim of the offense. The
department shall develop and maintain separate protocols for the
initial forensic physical examination of adults and children.
Payment under this section is limited to medical expenses
connected with the initial forensic physical examination, and
payment may be made to a medical provider using an examiner
qualified under part I of chapter 464, excluding s. 464.003(5);
chapter 458; or chapter 459. Payment made to the medical
provider by the department shall be considered by the provider
as payment in full for the initial forensic physical examination
associated with the collection of evidence. The victim may not
be required to pay, directly or indirectly, the cost of an
initial forensic physical examination performed in accordance
with this section.

Section 5. This act shall take effect July 1, 2007.
Guidelines for Forensic Examinations for Sexual Assault Victims Not Reporting to Law Enforcement

History:
In 2007, the Florida legislature made several important changes to chapter 960, the victims’ rights statute, to improve the treatment of victims of sexual battery. These changes were necessary in order to continue to receive federal grant funding for law enforcement programs, victim advocacy services, and enhanced prosecution through the reauthorized Violence Against Women Act (VAWA) 2005. In addition to several other provisions, VAWA 2005 required states to certify that victims of sexual battery are not required to report to law enforcement in order for victim compensation to pay for the forensic medical examination.

In order to address implementation issues, identify best practices, and support communities implementing the new statutory requirements, the Florida Council Against Sexual Violence convened a statewide workgroup comprised of prosecutors, law enforcement professionals, victim advocates, forensic examination and medical providers, and crime lab professionals.

Recommendations:
The workgroup developed these recommendations with the belief that communities ought to provide forensic exams to non-reporting victims within the same timeframe and to the same standards as those provided to victims who immediately report to law enforcement. These recommendations are also reflective of the following principles:

- All victims are entitled to voluntary, confidential services;
- All victims are entitled to advocacy; and
- All victims are entitled to complete information regarding their rights.

It is recommended that all hospitals and forensic exam facilities use the 2007 Florida Office of the Attorney General sexual assault protocols as a minimum standard for conducting the forensic exam. It is of particular importance for preserving DNA that the examiner ensure all swabs and other biological evidence are dried quickly and completely before being packaged and stored.

These recommended protocols do not displace or supersede any reporting, consent, or treatment requirements applicable to minor victims under Florida law; e.g., F.S. 39.201 (mandatory reporting of child abuse, abandonment, of neglect of a minor); F.S. 743.0645 (consent to medical treatment of minor); F.S. 394.4784 (consent to counseling for minor).

Sexual Assault Response Teams (SARTs)
It is recommended that the SART in each Florida county use these guidelines as the basis for their own local policies and procedures for providing forensic exams to sexual assault victims choosing not to immediately involve law enforcement. It will require all responders and agencies working collaboratively to carry out the exams and preserve the evidence in the most effective and victim-centered way.
If the county does not already have a SART, implementing policies and procedures to provide forensic exams for all victims whether or not they immediately report to law enforcement is an important reason to establish a SART. A SART is a multidisciplinary group made up, at a minimum, of representatives from local law enforcement agencies, the state attorney’s office, the local certified rape crisis center, FDLE or the local crime lab, local colleges and universities and the medical facilities performing the forensic exams. Establishing a SART can help improve relationships and coordinate the community’s response to all sexual assault victims.

There is no one way to organize a SART. Every team will have a different way of starting up and working together depending on the participating agencies and individual members and the available community resources. A team may start out informally to address one specific issue, such as providing forensic exams for non-reporting victims, and decide to formalize itself later with interagency agreements and system wide written protocols.

A first step in creating a SART is identifying one or more influential leaders to bring everyone together. The state attorney, sheriff, police chief, a judge, or another local elected official working collaboratively with the certified rape crisis program director is often an effective SART development partnership.

The goal of the initial meeting may be to discuss how the changes to Florida law regarding collecting forensic exams for non-reporting victims affect every agency. How can everyone work in collaboration to make this happen? Who will store the evidence? How will victim confidentiality be maintained until or unless she or he decides to file a police report? Who will track the kits and match them with victims? The meeting attendees can use the Guidelines to implement the changes and assign roles. Follow up meetings will help agencies determine how the new procedures are working and what needs more fine tuning.

Through the process of determining responsibilities and carrying out the Guidelines, the individuals will gain valuable experience working together in a team format to accomplish a goal. Members may find they better understand each agency’s role and have built stronger professional relationships with one another. At this point the individual agencies may decide to formalize their team as a SART to address other concerns that have come to light as a result of this process and to generally improve the community response to victims of sexual assault.

The team could invite someone to who participates in an established SART in another part of the state to a meeting to talk about how their SART functions, and the benefits and challenges of serving on a SART.

A next step is to set goals for the SART. Solidifying goals will help keep the group going when things get more complex later on, bringing the focus back to what the team hoped to accomplish when it started. Another useful task is requesting that each agency
bring current data on the number and types of sexual assault cases they see at their agencies. This will help the group determine baseline measures and track outcomes. Some SARTs decide the best way to carry out their duties consistently is to write a multidisciplinary sexual assault response protocol outlining how responders will interact with both reporting and non-reporting survivors, as well as with other members of the team.

Many teams find it valuable to ask each agency to sign an interagency agreement committing to participate regularly in SART meetings and to work towards accomplishing the team’s goals. Each agency would pledge to send a representative with decision making authority to each meeting and to send the same person, for continuity purposes, as much as practicable. If the team decides to write a protocol, the interagency agreement would include that each agency will train all new and existing personnel on the new protocol and standards. SARTs then review the protocols yearly and make changes as necessary.

There are many successful SART development models for communities to use when creating multidisciplinary response teams to promote consistent, victim-centered responses and improve public safety. For technical assistance on establishing or enhancing a county’s SART or for a SART Toolkit, contact the Florida Council Against Sexual Violence at 888-965-7273.

**Guidelines**

I. Definitions

   a. Forensic exam facility: an independent or free standing facility or program that performs forensic exams and is not operated by a hospital emergency room or emergency department
   b. Hospital: any licensed facility which provides emergency room services
   c. Secure storage area: a locked location with limited and recorded access
   d. Sexual assault forensic evidence (SAFE) kit: kit for collecting evidence from victim’s body
   e. Toxicology kit: kit for collecting forensic samples of blood and urine
   f. Victim: a person seeking a forensic exam

II. Engaging Certified Rape Crisis Program Victim Advocate

   A. When a sexual assault victim arrives at a hospital or forensic exam facility requesting a forensic exam, the hospital or forensic exam facility shall immediately call the certified rape crisis program and other appropriate victim services.

III. Tracking SAFE Kits and Toxicology Kits

   A. If the victim chooses not to report the assault to law enforcement at the time of the exam:

      i. the hospital or forensic exam facility shall collect the SAFE kit and any toxicology kit and maintain records in a manner that protects the identity of the victim.
ii. the hospital or forensic exam facility shall label the SAFE kit and any toxicology kit with the patient/medical record number.

iii. the name of the victim shall **not** be recorded on the outside packaging of the SAFE kit or any toxicology kit.

iv. the responding victim advocate shall record the patient’s name and track the patient/medical record number.

v. if the victim later chooses to file a report with law enforcement, the victim must sign a release authorizing the certified rape crisis program or hospital or forensic exam facility to make the patient/medical record number available to law enforcement to retrieve the kits and evidence from storage. The certified rape crisis program or hospital or forensic exam facility shall not release the patient/medical record number without the victim’s consent.

B. The hospital or forensic exam facility shall provide information to the victim that includes:

i. patient/medical record number

ii. date of the exam

iii. name of the law enforcement agency or forensic exam facility holding the SAFE kit, toxicology kit and any other evidence

iv. name and contact information of the hospital or forensic exam facility where exam was conducted

v. name and contact information of the local certified rape crisis program and other appropriate victim services

vi. length of time evidence will be stored in the absence of a law enforcement report after which time the evidence may be destroyed

vii. information regarding how the victim should proceed if she or he decides to report the offense

IV. Storage and Transportation of Sexual Assault Forensic Evidence (SAFE) Kits and Other Evidence

A. The law enforcement agency or forensic exam facility storing the evidence shall:

i. store SAFE kits and toxicology kits in a refrigerator in a secure storage area

ii. store clothing in sealed evidence bags in a secured storage area at room temperature

iii. as a minimum standard store evidence for 90 days; as a best practice store evidence for 15 months or longer

B. Guidelines for maintaining chain of custody and long-term storage of evidence at a law enforcement agency:

i. One law enforcement agency within the designated area served by the hospital or forensic exam facility shall be responsible for long-term storage of the evidence.

ii. The hospital or forensic exam facility shall contact law enforcement to collect the completed kits.
iii. The hospital or forensic exam facility conducting the forensic exam shall maintain control of any kits until a representative from the law enforcement agency arrives to collect it.

iv. Law enforcement shall provide a receipt for any evidence collected which shall indicate the date, time and manner of pick-up.

v. The law enforcement agency shall directly transport the evidence to the secure evidence storage room, logging the date and time of its arrival.

C. Guidelines for maintaining chain of custody and long-term storage of evidence at a forensic exam facility:
   
i. Upon finishing the exam the forensic exam facility shall immediately lock the evidence in the secure storage area.

D. Hospital emergency rooms and emergency departments shall not hold completed SAFE kits, toxicology kits, or other evidence for long-term storage.
HB 2154 – Forensic Enhancement Bill
OR Laws Chapters 789 – SAVE Fund

~ Recommended Law Enforcement Policy ~
For implementation of HB 2154

The Criminal Justice Committee of the Attorney General’s Sexual Assault Task Force, comprised of law enforcement, prosecutors, an advocate, a survivor and representatives from the OSP Forensic Services Division and the Department of Public Safety Standards and Training, developed the following policy for law enforcement agencies to successfully comply with the passage of HB 2154.

HB 2154 was passed in order to eliminate the requirement for law enforcement authorization prior to collection of an Oregon State Police (OSP) Sexual Assault Forensic Evidence (SAFE) Kit and to protect the identity of victims who choose to have a SAFE Kit collected without making a report to law enforcement. Moreover, the passage of HB 2154 will put Oregon in compliance with Federal Violence Against Women funding requirements, thereby ensuring that Oregon continues to be eligible for monies granted to law enforcement agencies, prosecutors’ offices, the courts and training programs.

Law Enforcement Recommended Policy

I. Law enforcement agencies are responsible for maintaining chain of evidence for ALL SAFE Kits and associated evidence for victims of sexual assault collected by medical facilities.

II. SAFE Kits should be retrieved within 2 hours of receiving a call from the medical facility.

III. The law enforcement agency whose jurisdiction includes the medical facility where the SAFE Kit and other evidence were collected is the primary responder.

IV. SAFE Kits, where the identity of the victim is unknown, will need to be assigned a case number and entered into evidence. Methods such as Jane Doe reporting, citizen contact, suspicious incident or sexual offense can be utilized for generating a case number.

V. The SAFE Kit number should be used as a reference to ensure that victims who choose to report the assault are able to have their evidence readily retrieved using the numbers they were provided with by the medical facility.
VI. SAFE Kits and other evidence collected for victims whose identity is unknown should be maintained in the same manner as other SAFE Kits and evidence.
   a. SAFE Kits collected for victims whose identity is unknown should not be opened until or unless the victim reports the assault. Opening SAFE Kits will compromise the admissibility of evidence for the purpose of prosecution.

VII. SAFE Kits where the identity of the victim is unknown must be kept by law enforcement for a period of at least six months (180 days).
   a. With the passage of HB 2153, the Statute of Limitations for Rape I and II, Sodomy I and II, Unlawful Sexual Penetration I and II and Sex Abuse I have been increased to 25 years when the DNA evidence of a suspect has been collected. Law enforcement agencies are therefore encouraged to maintain SAFE Kits and other evidence for 25 years.

SAFE Kits and other evidence are the property of the criminal justice system. Law enforcement is responsible for the retrieval and storage of ALL evidence, including SAFE Kits.
HB 2154 – Forensic Enhancement Bill
OR Laws Chapters 789 – SAVE Fund

July 2007

~ Recommended Medical Facility Policy ~
For implementation of HB 2154

The Medical Forensic Committee of the Attorney General’s Sexual Assault Task Force, comprised of registered nurses, forensic specialists, Sexual Assault Nurse Examiners (SANEs), physicians, public health representatives and an advocate, developed the following policy for medical facilities to successfully comply with the passage of HB 2154.

HB 2154 was passed in order to eliminate the requirement for law enforcement authorization prior to collection of an Oregon State Police (OSP) Sexual Assault Forensic Evidence (SAFE) Kit and to protect the identity of victims who choose to have a SAFE Kit collected without making a report to law enforcement. Moreover, the passage of HB 2154 will put Oregon in compliance with Federal Violence Against Women funding requirements, thereby ensuring that Oregon continues to be eligible for monies granted to law enforcement agencies, prosecutors’ offices, the courts and training programs.

Medical Facility Recommended Policy

I. Medical facilities are required to offer victims of sexual assault a complete medical assessment (medical exam, SAFE Kit collection, STI prophylaxis and EC prophylaxis) to all victims who present within 84 hours post assault, regardless of whether they choose to report the assault to law enforcement. Law enforcement authorization for SAFE Kit collection is NOT required.

II. Medical facilities shall collect SAFE Kits and maintain records in a manner that protects the identity of the victim.

a. The SAFE Kit number, located on the outside of the OSP SAFE Kit, shall be recorded in the medical/patient record.

b. The name of the victim shall NOT be recorded on the outside of the OSP SAFE Kit envelope.

c. Consent forms to be signed by the victim shall clearly specify whether the SAFE Kit and other evidence collected will be turned over to law enforcement for ‘investigation purposes’ or for ‘storage only’.
III. Medical facilities shall provide information to non-reporting victims that includes:
   a. The SAFE Kit Number
   b. Date of the exam
   c. Law enforcement agency who received the SAFE Kit and other evidence
   d. Name and location of the medical facility where exam was conducted
   e. Six month (or 180 day) minimum storage of evidence by law enforcement

IV. Medical facilities shall maintain chain of evidence until SAFE Kits and other evidence are turned over to the appropriate law enforcement agency.

V. Medical facilities shall turn SAFE Kits and other evidence over to law enforcement in a manner that protects the identity of the victim.

VI. All documentation turned over to law enforcement should be sealed in the SAFE Kit envelope to protect the identity of the victim.

VII. The SAFE Kit number should be used as a reference to ensure that victims who choose to report the assault are able to have their evidence readily retrieved using the numbers they were provided by the medical facility.

SAFE Kits and other evidence are the property of the criminal justice system. Law enforcement is responsible for the retrieval and storage of ALL evidence, including SAFE Kits.
The purpose of this SANE – OSP Anonymous Sexual Assault Reporting Program is to comply with HB 2154, while providing a coordinated medical – legal response to anonymous sexual assault reporting. Under this anonymous reporting program the Sexual Assault Nurse Examiner (SANE) can, with the survivor’s consent, submit collected items to the Oregon State Police using only a kit number. The items can then be held for 180 days, allowing the survivor time to decide whether to make a formal report to law enforcement.

The goal of the program is to recognize the survivor’s needs, as well as adapt to the constraints of the criminal justice system. In the event the survivor decides to make a formal report to law enforcement, the collected items are maintained with the same integrity, chain of custody, and proper handling as evidence. An anonymous sexual assault reporting program can benefit the survivor by providing time to make a fully informed decision and by preserving valuable evidence.

The information below details the procedures to be followed as part of the SANE – OSP Anonymous Sexual Assault Reporting Program in Jackson County.

**SANE Procedure:**

**If a SANE determines that a survivor would like items collected and stored anonymously:**

1. **The SANE will have the survivor sign the OSP Authorization for Collection / Release form, entering the evidence kit number on the form, and making a copy for both the survivor and for the case file.**

2. **The SANE will then collect and package the items, this includes:**
   a. sealing the bag(s) with evidence tape,
   b. initialing and dating the evidence tape, and
   c. marking the bag(s) with:
      1.) the kit #
      2.) the words “sexual assault"
      3.) date / time of collection
      4.) name of the SANE
3. The SANE will then contact (personally or leave a message) for OSP Evidence Tech, John Parrish at 541-776-6114 Ext. 222, advising him that there is evidence to be picked up. The SANE should also advise whether there is urine, evidence that needs to be dried, or other concern of evidence degradation. In cases where urine is collected, there is evidence that needs to be dried, or there is concern of evidence degradation, the SANE should contact:
   a. OSP Dispatch, 541-776-6111, and request an immediate call from:
      1.) The CID Sergeant, if not available, the
      2.) CID Lieutenant, if not available, a
      3.) Major Crimes Detective.

4. If the SANE leaves the hospital before the evidence is picked up, the OSP Chain of Custody Form is completed and placed with the evidence in the Sexual Assault Response Team (SART) lock-up at the hospital. The hospital charge nurse takes possession of the lock-up key.

**OSP Procedure:**

1. OSP will pick-up evidence from the SANE or the SART lock-up at the hospital and enter it as evidence into the OSP evidence locker.

2. In cases where there is urine, evidence that needs to be dried, or other concern of evidence degradation, OSP will make arrangements to pick-up the evidence immediately. This will be completed by:
   a. the Evidence Tech, if he is on duty, or by
   b. an OSP Detective, if one is on duty, or by
   c. an OSP Patrol Trooper, if one is on duty, or by
   d. an OSP Detective or Supervisor.

3. When notified that a survivor wishes to report the case for investigation, OSP will assist the survivor or SART Advocate in determining the law enforcement agency of jurisdiction. OSP should provide the survivor or SART Advocate with contact information for the law enforcement agency of jurisdiction. If the jurisdiction is outside a city limits in Jackson or Josephine County, then OSP will conduct the investigation. The OSP Evidence Tech should make arrangements to transfer all evidence to the law enforcement agency of jurisdiction.

4. Prior to an official report being made to law enforcement, and upon request of the survivor or SART Advocate, OSP will return all personal property being stored to the survivor. The personal property will be returned by the OSP Evidence Tech, as soon as possible, during normal business hours.

5. If OSP is notified by the survivor or SART Advocate that no report will be made to law enforcement, then the items collected will be destroyed after the 180 day time

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period. In cases where the 180 days has elapsed and OSP has had no contact from the survivor or SART Advocate, then the OSP Evidence Tech will attempt contact with the SART Advocate to ascertain whether or not the survivor wants to make a report to law enforcement. If the SART Advocate is unable to contact or locate the survivor then all items being held will be destroyed.

**SART Advocate Procedure:**

1. The SART Advocate will have the responsibility of tracking of the 180 day storage time period.

2. After 180 days, the SART Advocate should contact OSP Evidence Tech John Parrish at 541-776-6114 Ext. 222, and advise whether or not the survivor wishes to make a report to law enforcement.

3. If, during the 180 days, the SART Advocate learns that the survivor wishes to report the case to law enforcement, the SART Advocate can contact or assist the survivor in contacting the OSP Evidence Tech with the kit # from the OSP Authorization for Collection / Release Form. (If the survivor no longer has a copy of the form, the SANE Program Manager should be contacted to obtain the kit # from the medical file.)
Wyoming Association of Sheriffs and Chiefs of Police

POLICY

On Forensic Medical Exams for sexual assault victims not reporting to law enforcement

While a victim of sexual assault in Wyoming has the opportunity to participate in the criminal justice system, victims of sexual assault will not be required to participate in the criminal justice system or cooperate with law enforcement in order to be provided a forensic medical exam.

Victims of sexual assault shall have access to a forensic medical exam upon their request. When a victim of sexual assault presents to victim advocates, medical professionals or law enforcement and chooses not to report the assault to law enforcement and/or wants to remain anonymous, they shall, if they desire, be provided a forensic medical exam.

If, at the time the exam is conducted, the victim chooses not to report the assault to law enforcement and the exam is performed by a trained examiner, the medical facility will bill the Wyoming Division of Victim Services for the costs of the forensic medical exam.

If forensic evidence is collected, the evidence will be turned over to the local law enforcement agency that would otherwise have jurisdiction, who will maintain custody of the evidence using the medical facility’s identification number in lieu of the patient’s name.

The evidence shall be maintained at the receiving law enforcement agency for a period of (18) eighteen months. If a report has not been made, the evidence will be destroyed after (18) eighteen months.
Forensic Evidence Collection Policies & Systems: SAFE Payment Procedures

N= 36

Paid if Reported
Local LE
Victims Comp
Other Agency $
State Funded
Ins. Co.
AG’s Office
Victim does not pay
Purpose of program and grants

(a) General program purpose

The purpose of this subchapter is to assist States, State and local courts (including juvenile courts), Indian tribal governments, tribal courts, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

(b) Purposes for which grants may be used

Grants under this subchapter shall provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women, and specifically, for the purposes of--

(1) training law enforcement officers, judges, other court personnel, and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;

(2) developing, training, or expanding units of law enforcement officers, judges, other court personnel, and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) developing and implementing more effective police, court, and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

(5) developing, enlarging, or strengthening victim services programs, including sexual assault, domestic violence and dating violence programs, developing or improving delivery of victim services to underserved populations, providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

(6) developing, enlarging, or strengthening programs addressing stalking;
(7) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence;

(8) supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by State funds, to coordinate the response of State law enforcement agencies, prosecutors, courts, victim services agencies, and other State agencies and departments, to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;

(9) training of sexual assault forensic medical personnel examiners in the collection and preservation of evidence, analysis, prevention, and providing expert testimony and treatment of trauma related to sexual assault;

(10) developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of domestic violence or sexual assault, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals;

(11) providing assistance to victims of domestic violence and sexual assault in immigration matters;

(12) maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families;

(13) supporting the placement of special victim assistants (to be known as "Jessica Gonzales Victim Assistants") in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities--

(A) developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized;

(B) notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

(C) referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services);
and

(D) taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order; and

(14) to provide funding to law enforcement agencies, nonprofit nongovernmental victim services providers, and State, tribal, territorial, and local governments, (which funding stream shall be known as the Crystal Judson Domestic Violence Protocol Program) to promote--

(A) the development and implementation of training for local victim domestic violence service providers, and to fund victim services personnel, to be known as "Crystal Judson Victim Advocates," to provide supportive services and advocacy for victims of domestic violence committed by law enforcement personnel;

(B) the implementation of protocols within law enforcement agencies to ensure consistent and effective responses to the commission of domestic violence by personnel within such agencies (such as the model policy promulgated by the International Association of Chiefs of Police ("Domestic Violence by Police Officers: A Policy of the IACP, Police Response to Violence Against Women Project" July 2003));

(C) the development of such protocols in collaboration with State, tribal, territorial and local victim service providers and domestic violence coalitions.

Any law enforcement, State, tribal, territorial, or local government agency receiving funding under the Crystal Judson Domestic Violence Protocol Program under paragraph (14) shall on an annual basis, receive additional training on the topic of incidents of domestic violence committed by law enforcement personnel from domestic violence and sexual assault nonprofit organizations and, after a period of 2 years, provide a report of the adopted protocol to the Department of Justice, including a summary of progress in implementing such protocol.

(c) State coalition grants

(1) Purpose

The Attorney General shall award grants to each State domestic violence coalition and sexual assault coalition for the purposes of coordinating State victim services activities, and collaborating and coordinating with Federal, State, and local entities engaged in violence against women activities.

(2) Grants to State coalitions

The Attorney General shall award grants to--
(A) each State domestic violence coalition, as determined by the Secretary of Health and Human Services through the Family Violence Prevention and Services Act (42 U.S.C. 10410 et seq.); and

(B) each State sexual assault coalition, as determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

(3) Eligibility for other grants

Receipt of an award under this subsection by each State domestic violence and sexual assault coalition shall not preclude the coalition from receiving additional grants under this subchapter to carry out the purposes described in subsection (b) of this section.

(d) Tribal coalition grants

(1) Purpose

The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of--

(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;

(B) enhancing the response to violence against American Indian and Alaska Native women at the tribal, Federal, and State levels; and

(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to American Indian women victimized by domestic and sexual violence.

(2) Grants to tribal coalitions

The Attorney General shall award grants under paragraph (1) to--

(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against American Indian and Alaska Native women; and

(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaska Native women.

(3) Eligibility for other grants

Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under
this chapter to carry out the purposes described in subsection (b) of this section.

42 U.S.C.A. § 3796gg-1

State grants

(a) General grants

The Attorney General may make grants to States, for use by States, State and local courts (including juvenile courts), units of local government, nonprofit nongovernmental victim services programs, and Indian tribal governments for the purposes described in section 3796gg(b) of this title.

(b) Amounts

Of the amounts appropriated for the purposes of this subchapter--

(1) Ten percent shall be available for grants under the program authorized in section 3796gg-10 of this title, which shall not otherwise be subject to the requirements of this part (other than section 3796gg-2 of this title).

(2) 2.5 percent shall be available for grants for State domestic violence coalitions under section 3796gg(c) of this title, with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, the coalition for Guam, the coalition for American Samoa, the coalition for the U.S. Virgin Islands, and the Coalition for the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56 of the total amount made available under this paragraph for each fiscal year;

(3) 2.5 percent shall be available for grants for State sexual assault coalitions under section 3796gg(c) of this title, with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, coalitions for Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56 of the total amount made available under this paragraph for each fiscal year;

(4) 1/56 shall be available for grants under section 3796gg(d) of this title;

(5) $600,000 shall be available for grants to applicants in each State; and

(6) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States (not including populations of Indian tribes).
(c) Qualification

Upon satisfying the terms of subsection (d) of this section, any State shall be qualified for funds provided under this subchapter upon certification that--

(1) the funds shall be used for any of the purposes described in section 3796gg(b) of this title;

(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs and describe how the State will address the needs of underserved populations;

(3) of the amount granted--

(A) not less than 25 percent shall be allocated for law enforcement and not less than 25 percent shall be allocated for prosecutors;

(B) not less than 30 percent shall be allocated for victim services, of which at least 10 percent shall be distributed to culturally specific community-based organization; and

(C) not less than 5 percent shall be allocated for State and local courts (including juvenile courts); and

(4) any Federal funds received under this subchapter shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this chapter.

(d) Application requirements

The application requirements provided in section 3763 of this title shall apply to grants made under this subchapter. In addition, each application shall include the certifications of qualification required by subsection (c) of this section, including documentation from nonprofit, nongovernmental victim services programs, describing their participation in developing the plan required by subsection (c)(2) of this section. An application shall include--

(1) documentation from the prosecution, law enforcement, court, and victim services programs to be assisted, demonstrating--

(A) need for the grant funds;

(B) intended use of the grant funds;

(C) expected results from the use of grant funds; and
(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background;

(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 3796gg-4 of this title; and

(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases provided in section 3796gg-5 of this title; and

(4) documentation showing that tribal, territorial, State or local prosecution, law enforcement, and courts have consulted with tribal, territorial, State, or local victim service programs during the course of developing their grant applications in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence.

(e) Disbursement

(1) In general

Not later than 60 days after the receipt of an application under this subchapter, the Attorney General shall--

(A) disburse the appropriate sums provided for under this subchapter; or

(B) inform the applicant why the application does not conform to the terms of section 3763 of this title or to the requirements of this section.

(2) Regulations

In disbursing monies under this subchapter, the Attorney General shall issue regulations to ensure that States will--

(A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

(B) determine the amount of subgrants based on the population and geographic area to be served;

(C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and

(D) recognize and meaningfully respond to the needs of underserved populations and
ensure that monies set aside to fund linguistically and culturally specific services and activities for underserved populations are distributed equitably among those populations.

(f) Federal share

The Federal share of a grant made under this subchapter may not exceed 75 percent of the total costs of the projects described in the application submitted.

(g) Indian tribes

Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this subchapter.

(h) Grantee reporting

(1) In general

Upon completion of the grant period under this subchapter, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this subchapter.

(2) Certification by grantee and subgrantees

A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

(3) Suspension of funding

The Attorney General shall suspend funding for an approved application if--

(A) an applicant fails to submit an annual performance report;

(B) funds are expended for purposes other than those described in this subchapter; or

(C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.
Definitions and grant conditions

In this subchapter the definitions and grant conditions in section 13925 of this title shall apply.

General terms and conditions

(a) Nonmonetary assistance

In addition to the assistance provided under this subchapter, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State, tribal, and local assistance efforts.

(b) Reporting

Not later than 1 month after the end of each even-numbered fiscal year, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State and for each grantee Indian tribe--

(1) the number of grants made and funds distributed under this subchapter;

(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability, and the membership of persons served in any underserved population; and

(4) an evaluation of the effectiveness of programs funded under this subchapter.

(c) Regulations or guidelines

Not later than 120 days after September 13, 1994, the Attorney General shall publish proposed regulations or guidelines implementing this subchapter. Not later than 180 days after September 13, 1994, the Attorney General shall publish final regulations or guidelines implementing this subchapter.
42 U.S.C.A. § 3796gg-4

Rape exam payments

(a) Restriction of funds

   (1) In general

A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this subchapter unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) of this section for victims of sexual assault.

   (2) Redistribution

Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1) shall be distributed to other Indian tribal governments pro rata.

(b) Medical costs

A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity--

   (1) provides such exams to victims free of charge to the victim;

   (2) arranges for victims to obtain such exams free of charge to the victims; or

   (3) reimburses victims for the cost of such exams if--

      (A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

      (B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

      (C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and

      (D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.
(c) Use of funds

A State or Indian tribal government may use Federal grant funds under this subchapter to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State, Indian tribal government, or territorial government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

(d) Rule of construction

(1) In General

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.

(2) Compliance Period

States, territories, and Indian tribal governments shall have 3 years from the date of enactment of the Violence Against Women and Department of Justice Reauthorization Act of 2005 to come into compliance with this subsection.

(e) Judicial notification

(1) In general

A State or unit of local government shall not be entitled to funds under this subchapter unless the State or unit of local government--

(A) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in section 922(g)(8) and (g)(9) of Title 18, and any applicable related Federal, State, or local laws; or

(B) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of--

(i) the period ending on the date on which the next session of the State legislature ends; or

(ii) 2 years.

(2) Redistribution

Appendix #1 - Statute 42 U.S.C.A. § 3796gg
Funds withheld from a State or unit of local government under subsection (a) of this section shall be distributed to other States and units of local government, pro rata.

42 U.S.C.A. § 3796gg-5

Costs for criminal charges and protection orders

(a) In general

A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this subchapter unless the State, Indian tribal government, or unit of local government--

(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; or

(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of--

(A) the period ending on the date on which the next session of the State legislature ends; or

(B) 2 years after October 28, 2000.

(b) Redistribution

Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) of this section shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.

(c) Definition

In this section, the term "protection order" has the meaning given the term in section 2266 of Title 18.

42 U.S.C.A. § 3796gg-8
Polygraph testing prohibition

(a) In general

In order to be eligible for grants under this subchapter, a State, Indian tribal government, territorial government, or unit of local government shall certify that, not later than 3 years after January 5, 2006, their laws, policies, or practices will ensure that no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of an alleged sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense.

(b) Prosecution

The refusal of a victim to submit to an examination described in subsection (a) of this section shall not prevent the investigation, charging, or prosecution of the offense.
APPENDIX A

CERTIFICATION OF COMPLIANCE WITH
THE STATUTORY ELIGIBILITY REQUIREMENTS
OF THE VIOLENCE AGAINST WOMEN ACT AS AMENDED
Applicants should refer to the regulations cited below for further information regarding the certifications to which they are required to attest. Applicants also should review the instructions for certification included in the program regulations before completing this form. Signature on this form certifies that the state is qualified to receive the funds and provides for compliance with relevant requirements under 28 CFR Part 90 and 42 U.S.C 3796gg through 3796gg-5 and 3796gg-8. The certifications shall be treated as a material representation of fact upon which the Department of Justice will rely if it determines to award the covered transaction, grant, or cooperative agreement.

Upon complying with the application requirements set forth in this Application Guide, any state shall be qualified for funds provided under the Violence Against Women Act upon certification that:

(1) the funds will be used only for the statutory purposes described in 42 U.S.C. § 3796gg (a) and (b);

(2) grantees and subgrantees will develop plans for implementation and will consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs and describe how the state will address the needs of underserved populations;

(3) the amount granted will be allocated, without duplication, as follows: not less than 25 percent for law enforcement, not less than 25 percent for prosecutors, not less than 30 percent for nonprofit, nongovernmental victim services programs (of which at least 10 percent will be distributed to culturally specific community-based organizations), and not less than 5 percent for state and local courts; and

(4) any federal funds received under this subchapter will be used to supplement, not supplant, nonfederal funds that would otherwise be available for activities funded under this chapter.

In addition, as required by 42 U.S.C. 3796gg-4, 3796gg-5, and 3796gg-8 and implemented at 28 CFR Part 90:

(1) Forensic Medical Examination Payment Requirement for Victims of Sexual Assault

(a) A state, Indian tribal government, or unit of local government shall not be entitled to funds unless the state, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket costs of forensic medical exams for victims of sexual assault.

(b) A state, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity:

(1) provides such exams to victims free of charge to the victim;

(2) arranges for victims to obtain such exams free of charge to the victims; or

(3) reimburses victims for the cost of such exams if

(i) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

(ii) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

(iii) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim’s expense; and

(iv) the state, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.
(c) A State or Indian tribal government may use STOP grant funds to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State, Indian tribal government, or territorial government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

(d) As of the effective date for compliance with 42 U.S.C. 3796gg-4(d), no State, Indian tribal government, or territorial government may 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, or to be reimbursed for charges incurred on account of such an exam.

(2) Filing Costs For Criminal Charges and Protection Orders

A state, Indian tribal government, or unit of local government will not be entitled to funds unless it certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the state, tribal, or local jurisdiction.

(3) Judicial Notification

A State or unit of local government shall not be entitled to funds under this part unless the State or unit of local government--

(a) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in section 922(g)(8) and (g)(9) of title 18, United States Code, and any applicable related Federal, State, or local laws; or

(b) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of—

1. the period ending on the date on which the next session of the State legislature ends; or

(4) Polygraph Testing Prohibition

(a) In order to be eligible for grants under this part, a State, Indian tribal government, territorial government, or unit of local government shall certify that, not later than January 5, 2009, their laws, policies, or practices will ensure that no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of an alleged sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense.

(b) Under 42 U.S.C. 3796gg-8(b), the refusal of a victim to submit to a polygraph or other truth telling examination shall not prevent the investigation, charging, or prosecution of an alleged sex offense by a state, Indian tribal government, territorial government, or unit of local government.
As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with above certifications.

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**Public Reporting Burden Paperwork Reduction Act Notice.** Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete and file this form is 60 minutes per form. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Office on Violence Against Women, U.S. Department of Justice, 800 K Street, NW, Washington, DC 20530.
REPORTING REQUIREMENTS
FOR
COMPETENT ADULT VICTIMS
OF
DOMESTIC VIOLENCE

Teresa P. Scalzo, Esquire
April 21, 2006

Contains:
- Summary of the nation’s reporting requirements for competent adult victims of domestic violence
- List of issues that may be encountered when interpreting domestic violence reporting laws
- Text of the state statutes relevant to reporting requirements for medical professionals who treat a victim of domestic violence who is a competent adult

For additional information, contact:
The National Center for the Prosecution of Violence Against Women
American Prosecutors Research Institute
703-549-9222
ncpvaw@ndaa-apri.org
SUMMARY OF LAWS RELEVANT TO THE MANDATORY REPORTING OF DOMESTIC VIOLENCE WHEN THE VICTIM IS A COMPETENT ADULT

This document provides a summary of state laws relevant to the mandatory reporting of domestic violence or abuse by medical professionals to law enforcement when the victim is a competent adult\(^1\). The categories are: (1) laws that specifically require injuries caused by domestic violence or abuse to be reported; (2) laws which require injuries caused by non-accidental or intentional conduct to be reported; (3) laws which require injuries caused by criminal conduct to be reported; and (4) reporting requirements relating to other crimes or injuries which may impact victims of domestic violence or abuse. The specific language of these statutes is included in the state laws set forth after this summary.

Many states require medical personnel to make a report to law enforcement and/or social services following their treatment of a child, elderly person or vulnerable adult who was the victim of a crime. These statutes, however, are not included in this summary. Rather, this summary focuses on the reporting requirements related to the medical treatment of competent adults who are the victims of domestic violence or abuse.

\(^1\) Each state defines domestic violence and domestic abuse differently. For the purposes of this document, state reporting requirements specific to domestic violence in that state as well as general crimes of violence which may qualify as domestic violence were examined. Please refer to state law to determine what constitutes domestic violence or abuse in that state.

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abuse.\(^2\) Additionally, this document focuses on statutes which require reports to law enforcement as opposed to statutes that require reports to other agencies for the purpose of collecting statistics. Please note that this document is intended for informational purposes only and does not constitute legal advice.

**LAWS THAT SPECIFICALLY REQUIRE INJURIES CAUSED BY DOMESTIC VIOLENCE TO BE REPORTED**

The law specifically requires medical personnel to report that they have treated a victim of domestic violence when the victim is a competent adult in the following states:

- California, Ca. Pen Code § 11160
- Kentucky, KRS § 209.030

**LAWS WHICH MANDATE THE REPORTING OF NON-ACCIDENTAL OR INTENTIONAL INJURIES**

In certain states, medical personnel are required to report injuries caused by non-accidental or intentional means. In these states, qualifying medical professionals will have to report that they treated a patient who suffered a non-accidental or intentional injury. It is difficult to imagine a situation where injuries that are caused by domestic violence will not also be non-accidental or intentional; therefore, these statutes have the same impact as statutes that require incidents of domestic violence to

\(^2\)Competent adult is used to represent those adults who are viewed by the legal system as competent. Please refer to state law for definitions or interpretations of what constitutes a competent adult in that state.

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be reported. Statutes that require the reporting of non-accidental or intentional injuries to law enforcement include the following:

- Alaska, Alaska Stat. 08.64.369 (If the injury is likely to cause death)
- California, Cal Pen Code § 1160
- Colorado, C.R.S. 12-36-135
- Florida, Fla. Stat. § 790.24
- Georgia, O.C.G.A. § 31-7-9
- Michigan, MCLS § 750.411
- Ohio, ORC Ann. 2921.22 (If domestic violence is suspected, it shall be noted in the patient’s records)
- Pennsylvania, 18 Pa.C.S. § 5106 (There is an exception for domestic violence cases unless the injury constitutes serious bodily injury or was caused by a deadly weapon)

**LAWS WHICH MANDATE THE REPORTING OF INJURIES CAUSED BY CRIMINAL CONDUCT**

In certain states, medical personnel are required to report injuries caused by criminal conduct. Domestic violence that results in injury will generally be a crime; therefore, these statutes will almost always require that injuries caused by domestic violence be reported. Statutes that require the reporting of injuries caused by criminal conduct include the following:

- Arizona, A.R.S. § 13-3806 (Material injuries resulting from illegal or unlawful acts)
- California, Cal Pen Code § 1160 (Injuries that are the result of assaultive or abusive conduct)
- Colorado, C.R.S. 12-36-135
- Hawaii, HRS § 453-14 (Any injury that would seriously maim, produce death, or has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner)
- Idaho, Idaho Code § 39-1390
### Reporting Requirements for Competent Adult Victims of Domestic Violence

Current as of April 21, 2006

- Illinois - 20 ILCS 2630/3.2
- Iowa, Iowa Code § 147.111
- Massachusetts ALM GL ch. 112, § 12A1/2 (Rape or sexual assault must be reported but may not identify the victim)
- Nebraska, Neb. Rev. ST. 28-902 (Wounds or injuries of violence)
- New Hampshire, RSA § 631:6
- North Dakota, N.D. Cent. Code, § 43-17-41
- Ohio, ORC Ann. 2921.22; ORC Ann. 2921.22 (Felonies and any serious physical harm resulting from an offense of violence must be reported.)
- Pennsylvania - 18 Pa.C.S. § 5106 (There is an exception for domestic violence cases unless the injury constitutes serious bodily injury or was caused by a deadly weapon)
- Utah, Utah Code Ann. 26-23a-1
- Wisconsin, Wis. Stat. 146.995

### Additional Reporting Statutes That May Impact Competent Adult Victims of Domestic Violence

Some states require certain types of injuries to be reported by medical personnel to law enforcement. If a victim of domestic violence presents with any of these injuries, medical personnel will be required to report the injury to law enforcement, unless there is an exception for domestic violence in that state. These injuries include injuries caused by firearms, stab wounds or knife wounds, injuries caused with a deadly weapon and burns, among others. Relevant statutes include the following:

- Injuries caused by firearms
  - Alaska, Alaska Stat. § 08.64.369
  - Arizona, A.R.S. § 13-3806
  - Arkansas, A.C.A. § 12-12-602
  - California, Cal Pen Code § 11160

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REPORTING REQUIREMENTS FOR COMPETENT ADULT VICTIMS OF DOMESTIC VIOLENCE
Current as of April 21, 2006

- Colorado, C.R.S. 12-36-135
- Connecticut, Conn. Gen. Stat. § 19a-490f
- Delaware, 24 Del. C. § 1762
- District of Columbia, D.C. Code § 7-2601
- Florida, Fla. Stat. § 790.24
- Hawaii, HRS § 453-14
- Idaho, Idaho Code § 39-1390
- Iowa, Iowa Code § 147.111
- Illinois, 20 ILCS 2630/3.2
- Indiana, Ind. Code Ann. § 35-47-7-1
- Kansas, KS § 21-4213
- Louisiana, La. R.S. § 14:403.5
- Maine, 17 AMRS § 512
- Maryland, Md. Code Ann. § 20-703
- Massachusetts, ALM GL ch. 112, § 12A.
- Michigan, MCLS § 750.411
- Minnesota, Minn. Stat. § 626.52
- Mississippi, MS § 45-9-31
- Missouri, § 578.350 R.S. Mo.
- Montana, MCA § 37-2-30
- Nevada, NRS § 629.041
- New Hampshire, RSA § 631:6
- New Jersey, N.J. Stat. § 2C:58-8
- New York, NY CLS Penal § 265.25
- North Dakota, N.D. Cent. Code, § 43-17-41
- New Hampshire, RSA § 631:6
  - Ohio, ORC Ann. 2921.22 (If domestic violence is suspected, it shall be noted in the patient’s records)
  - Oregon, ORS § 146.750
  - Pennsylvania, 18 Pa.C.S. § 5106
  - Rhode Island, R.I. Gen. Laws § 11-47-48
  - South Carolina, S.C. Code Ann. § 16-3-1072
  - South Dakota, S.D. Codified Law § 21-13-10
  - Texas, Tex. Health & Safety Code § 161.041
  - Utah, Utah Code § 26-23a-2
  - Vermont, 13 V.S.A. § 4012

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REPORTING REQUIREMENTS FOR COMPETENT ADULT VICTIMS OF DOMESTIC VIOLENCE
Current as of April 21, 2006

- Stab wounds or non-accidental wounds caused by a knife or sharp pointed instrument
  - Alaska, Alaska Stat. § 08.64.369
  - Arizona, A.R.S. § 13-3806
  - Arkansas, A.C.A. § 12-12-602
  - Colorado, C.R.S. 12-36-135
  - Delaware, 24 Del. C. § 1762
  - Hawaii, HRS § 453-14
  - Indiana, Ind. Code Ann. § 35-47-7-1
  - Iowa, Iowa Code § 147.111
  - Kansas, KS § 21-4213
  - Massachusetts, ALM GL ch. 112, § 12A.
  - Michigan, MCLS § 750.411
  - Mississippi, MS § 45-9-31
  - Montana, MCA § 37-2-302
  - Nevada, NRS § 629.041
  - New Jersey, N.J. Stat. § 2C:58-8
  - New York, NY CLS Penal § 265.25
  - North Dakota, N.D. Cent. Code, § 43-17-41
  - Ohio, ORC Ann. 2921.22
  - Oregon, ORS § 146.750
  - South Dakota, S.D. Codified Laws § 23-13-10
  - Utah Code Ann. 26-23a-1

- Injuries caused by a weapon
  - District of Columbia, D.C. Code § 7-2601 (dangerous weapon)
  - Michigan, MCLS § 750.411 (deadly weapon)
  - Minnesota, Minn. Stat. § 626.52 (dangerous weapon)
  - New Jersey, N.J. Stat. § 2C:58-8
  - Utah Code Ann. 26-23a-1 (deadly weapon)
• Burn injuries
  o Alaska, Alaska Stat. § 08.64.369
  o Delaware, 24 Del. C. § 1762
  o Indiana, Ind. Code Ann. § 35-47-3
  o Louisiana, La. R.S. § 14:403.4
  o Massachusetts, ALM GL ch. 112, § 12A
  o Minnesota, Minn. Stat. 626.52
  o Nevada, NRS § 629.045
  o New Jersey, N.J. Stat. § 2C:58-8
  o New York, NY CLS Penal § 265.26
  o Ohio, ORC Ann. 2921.22
  o Wisconsin, Wis. Stat. §146.995

• Suspicious wounds
  o Minnesota, Minn. Stat. 626.52
ISSUES THAT MAY BE ENCOUNTERED WHEN INTERPRETING LAWS MANDATING THE REPORTING OF INJURIES CAUSED BY DOMESTIC VIOLENCE OR ABUSE

1. What are the state’s reporting laws?
   - With respect to domestic violence or abuse?
   - With respect to other crimes?
   - Does the law change if the crime also constitutes rape or sexual assault?

2. Who is the medical treatment provider? The statutes listed generally described the duty of various medical personnel to report. In certain states, if a victim goes to a community based forensic examiner program as opposed to a hospital, the provider may not be required to report the rape or other injury. In addition, one should consider whether first responders who provide medical treatment qualify as medical treatment providers.

3. Who is required to report and to whom are they required to report?

4. What information does the report have to contain? What is the procedure for reporting? What is the format of the report?

5. Who is paying for the examination? What happens in states where the examination will only be paid for if the victim reports the examination to law enforcement? What are the state’s laws with respect to the denial of medical treatment to a patient if the patient chooses only to receive medical treatment and not a forensic examination?

6. What is the penalty for failure to report? States have different penalties for the failure of medical personnel to comply with reporting laws. In some states, the consequences may be criminal, while in other states, the consequences are civil.
Many states require medical personnel to make a report to law enforcement and/or social services following treatment of a child, elderly person or vulnerable adult who was the victim of a crime. Although most states do not per se require medical personnel to make a report when they have treated a rape victim who is a competent adult, other state statutes may have the impact of requiring that a report be made. Laws regulating medical personnel’s reporting of their treatment of a competent, adult rape victim can be broken down into the following categories:

1. Laws that specifically require medical professionals to report treatment of a rape victim to law enforcement;
2. Laws that require the reporting of injuries that may include rape;
3. Laws relating to other crimes or injuries which may impact rape and sexual assault victims; and
4. Laws regarding sexual assault forensic examinations which may impact rape and sexual assault reporting.

This article discusses each of the four categories of rape reporting statutes.

Laws that mandate rape reporting

California is the only state that explicitly requires medical personnel to report their treatment of a competent, adult rape victim. In Kentucky, rape must be reported to the Kentucky Cabinet for Family and Children when the rape also constitutes domestic violence.

Massachusetts requires medical personnel to report to the Criminal History Systems Board and to the police that they have treated a rape victim; however, the report cannot include the victim’s name, address or any other identifying information.

Laws that mandate the reporting of injuries which may include rape

Laws that require the reporting of injuries which may include rape fall into two categories: (1) laws that require non-accidental or intentional injuries to be reported and (2) laws that require injuries caused by criminal conduct or violence to be reported. The question that arises in these states is whether a rape must be reported when the patient has suffered no injury other than the rape itself.

- Statutes that require the reporting of non-accidental or intentional injuries
  - Alaska, Alaska Stat. 08.64.369 (If the injury is likely to cause death)
  - California, Cal Pen Code § 11160
  - Colorado, C.R.S. 12-36-135
  - Florida, Fla. Stat. § 790.24
  - Georgia, O.C.G.A. § 31-7-9
  - Michigan, MCLS § 750.411
  - Ohio, ORC Ann. 2921.22
  - Pennsylvania, 18 Pa.C.S. § 5106 (Exception for domestic violence continued)
cases unless the injury constitutes serious bodily injury or was caused by a deadly weapon)

- Statutes that require the reporting of injuries caused by criminal conduct
  - Arizona, A.R.S. § 13-3806 (Material injuries)
  - California, Cal Pen Code § 11160
  - Colorado, C.R.S. 12-36-135
  - Hawaii, HRS § 453-14 (Any injury that would seriously maim, produce death, or has rendered the injured person unconscious)
  - Idaho, Idaho Code § 39-1390
  - Illinois, 20 ILCS 2630/3.2
  - Iowa, Iowa Code § 147.111
  - Massachusetts, ALM GL ch. 112, § 12A1/2 (Must report but may not identify a rape victim)
  - Nebraska, Neb. Rev. ST. 28-902
  - New Hampshire, RSA § 631:6
  - North Dakota, N.D. Cent. Code, § 43-17-41
  - Ohio, ORC Ann. 2921.22; ORC Ann. 2921.22 (Felony and any serious physical harm resulting from an offense of violence)
  - Pennsylvania, 18 Pa.C.S. § 5106
  - Rhode Island, R.I. Gen. Laws § 11-47-48
  - South Carolina, S.C. Code Ann. § 16-3-1072
  - South Dakota, S.D. Codified Law § 21-13-10
  - Texas, Tex. Health & Safety Code § 161.041
  - Utah, Utah Code § 26-23a-2
  - Vermont, 13 V.S.A. § 4012
  - Wisconsin, Wis. Stat. § 146.995

- Michigan, MCLS § 750.411
- Mississippi, MS § 45-9-31
- Montana, MCA § 37-2-302
- Nevada, NRS § 629.041
- New Jersey, N.J. Stat. § 2C:58-8
- New York, NY CLS Penal § 265.25
- North Dakota, N.D. Cent. Code, § 43-17-41
- Ohio, ORC Ann. 2921.22
- Oregon, ORS § 146.750
- South Dakota, S.D. Codified Laws § 23-13-10
- Utah, Utah Code Ann. 26-23a-1

- Injuries caused by a deadly weapon
  - District of Columbia, D.C. Code § 7-2601
  - Michigan, MCLS § 750.411
  - Minnesota, Minn. Stat. § 626.52
  - New Jersey, N.J. Stat. § 2C:58-8
  - Utah, Utah Code Ann. 26-23a-1

REPORTING REQUIREMENTS RELATING TO OTHER CRIMES OR INJURIES WHICH MAY IMPACT VICTIMS OF RAPE AND SEXUAL ASSAULT

The third category of mandatory reporting statute that may impact competent adult rape victims includes statutes that require various types of injuries caused by crimes other than rape to be reported. If a rape victim presents with any of these injuries, medical personnel are required to report the injury to law enforcement. These injuries include injuries caused by firearms, stab wounds or non-accidental wounds caused by a knife or sharp pointed instrument, injuries caused with a deadly weapon, and burns, among others. These include the following:

- Injuries caused by firearms
  - Alaska, Alaska Stat. § 08.64.369
  - Arizona, A.R.S. § 13-3806
  - Arkansas, A.C.A. § 12-12-602
  - California, Cal Pen Code § 11160
  - Colorado, C.R.S. 12-36-135
  - Connecticut, Conn. Gen. Stat. § 19a-490f
  - Delaware, 24 Del. C. § 1762
  - District of Columbia, D.C. Code § 7-2601
  - Florida, Fla. Stat. § 790.24
  - Hawaii, HRS § 453-14
  - Idaho, Idaho Code § 39-1390
  - Iowa, Iowa Code § 147.111
  - Illinois, 20 ILCS 2630/3.2
  - Indiana, Ind. Code Ann. § 35-47-7-1
  - Kansas, KS § 21-4213
  - Louisiana, La. R.S. § 14:403.5
  - Maine, 17 AMRS § 512
  - Maryland, Md. Code Ann. § 20-703
  - Massachusetts, ALM GL ch. 112, § 12A.
  - Michigan, MCLS § 750.411
  - Minnesota, Minn. Stat. § 626.52
  - Mississippi, MS § 45-9-31
  - Montana, MCA § 37-2-302
  - Nevada, NRS § 629.041
  - New Jersey, N.J. Stat. § 2C:58-8
  - New York, NY CLS Penal § 265.25
  - North Dakota, N.D. Cent. Code, § 43-17-41
  - Ohio, ORC Ann. 2921.22
  - Oregon, ORS § 146.750
  - South Dakota, S.D. Codified Laws § 23-13-10
  - Utah, Utah Code Ann. 26-23a-1

- Injuries caused by a deadly or dangerous weapon
  - District of Columbia, D.C. Code § 7-2601
  - Michigan, MCLS § 750.411
  - Minnesota, Minn. Stat. § 626.52
  - New Jersey, N.J. Stat. § 2C:58-8
  - Utah, Utah Code Ann. 26-23a-1
• Burn injuries
  • Alaska, Alaska Stat. § 08.64.369
  • Delaware, 24 Del. C. § 1762
  • Indiana, Ind. Code Ann. § 35-47-3
  • Louisiana, La. R.S. § 14:403.4
  • Massachusetts, ALM GL ch. 112, § 12A
  • Minnesota, Minn. Stat. 626.52
  • Nevada, NRS § 629.045
  • New Jersey, N.J. Stat. § 2C:58-8
  • New York, NY CLS Penal § 265.26
  • Ohio, ORC Ann. 2921.22
  • Wisconsin, Wis. Stat. §146.995

• Suspicious wounds
  • Minnesota, Minn. Stat. 626.52

STATUTES ADDRESSING PAYMENT FOR FORENSIC SEXUAL ASSAULT EXAMINATIONS

The Violence Against Women Act precludes states from receiving STOP funding unless the state or unit of local government incurs the full out-of-pocket costs of forensic medical examinations for victims of sexual assault. Many states have enacted statutes that impose requirements in order for the cost of the examination to be covered.\(^{11}\) For example, a number of states have statutes that require that rape be reported to law enforcement before a victim may receive a forensic sexual assault examination without cost to the victim. Some have additional requirements such as time limits for the performance of the examination or cooperation with law enforcement. VAWA III\(^{11}\) calls the practice of requiring victims to report to law enforcement into question. It states: “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.”\(^{11}\) (Notably, victims cannot be denied medical treatment regardless of what the requirements are with respect to forensic evidence collection.)

The following states have statutes that may require a rape to be reported before a forensic examination is paid for:

• Arkansas, A.C.A. § 12-12-403
• Arizona, A.R.S. § 13-1414
• Colorado, CRS § 18-3-407.5
• Connecticut, Conn. Gen. Stat. § 19a-112a
• Delaware, 11 Del. C. 9019
• District of Columbia, D.C. Code § 4-506
• Florida, FS.A. § 960.28
• Georgia, O.C.G.A. § 16-6-1
• Hawaii, HRS 351-15
• Idaho, Idaho Code § 19-5303 and § 72-1019
• Indiana, Burns Ind. Code Ann. § 5-2-6.1-39 and § 16-21-8-5
• Iowa, Iowa Code § 915.41
• Kansas, KS § 65-448
• Kentucky, KRS § 216B.400
• Maine, Code Me. R. 26-550 Ch. 8, § 1
• Maryland, MD ADC 07.06.07.05
• Minnesota, Minn. Stat. § 609.35
• Mississippi, MS Code § 99-37-25
• Missouri, MS § 191.225
• Montana, Mont. Code § 46-15-411
• Nebraska, RRS Neb. § 13-607
• Nevada, NRS § 217.310 and NRS § 449.244
• New Hampshire, RSA § 21-M:8-c
• New York, NY CLS Exec. § 631
• North Carolina, N.C. Gen. Stat. § 143B-480.2
• North Dakota, N.D. Cent. Code, § 54-23.4-06
• Ohio, ORC Ann. § 2907.28
• Oklahoma, 21 OK St. § 142.20
• Oregon, OR Admin. R. 137-084-0010
• Pennsylvania, 18 PS. § 11.707.
• South Carolina, S.C. Code Ann. § 16-3-1350
• South Dakota, S.D. Codified Laws § 22-22-26
• Texas, Tex. Code Crim. Proc. art. 56.08
• Utah, Utah Code § 63-25a-411
• Vermont, 32 V.S.A. § 1407
• Virginia, Va. Code Ann. § 19.2-165.1
• Wisconsin, Wis. Stat. § 949.08
• Wyoming, Wyo. Stat. § 6-2-309

Rape reporting statutes may be interpreted differently by hospitals, medical providers or courts. When working with victims, prosecutors and other allied professionals should remember that the possibility always exists that the rape could be reported due to these varying interpretations. Ideally, questions about reporting requirements should be resolved before a rape victim is sitting in an emergency room; communities, therefore, should address questions with Memoranda of Understanding (MOUs) or in Sexual Assault Response Team (SART) protocols.

continued ➜
The entire report, *Rape and Sexual Assault Reporting Requirements for Competent Adult Victims*, is available from the National Center for the Prosecution of Violence Against Women at APRI. It contains the full text of all state statutes, as well as a discussion of issues that may be encountered when interpreting the statutes. Please email ncpvaw@ndaa-apri.org or call NCPVAW at 703-549-9222. In addition, the state statutes are posted on NCPVAW’s website with an interactive map at http://www.ndaa-apri.org/apri/programs/vawa/state_rape_reportings_requirements.html.

**FOOTNOTES**

1. Ms. Scalzo is the Director of APRI’s National Center for the Prosecution of Violence Against Women.
2. Please refer to state law for definitions or interpretations of what constitutes a competent adult in a given state.
3. The terms rape and sexual assault are used interchangeably in this document. For specific definitions of rape and sexual assault, please refer to state law.
4. The purpose of this article is to provide an overview of the issues that may arise with respect to mandatory requirements. The article is not intended as legal advice. Work with local attorneys to ensure that their interpretation of relevant law is correct.
5. Note that some medical personnel may interpret statutes differently than this article. For example, some providers in Oklahoma interpret 10 Okl. St. § 7104 as requiring a report to be made when the victim is a competent adult. However, the statute appears in Chapter 71 of Title 10, which is Oklahoma’s Child Abuse Reporting and Prevention Act; therefore, it does not mandate that a report be made when the victim is a competent adult.
7. KRS § 209.030.
10. Note that these statutes should only impact victims when payment is an issue; therefore, they should not be an issue for military members. However, a hospital primarily accustomed to dealing with civilian victims may have a protocol in place that automatically results in a report being made. Therefore, this issue should be addressed when drafting Memoranda of Understanding (MOUs) and / or creating Sexual Assault Response Teams (SARTs).
11. H.R. 3402.
12. H.R. 3402, sec. 101(f). This language will be added to 42 U.S.C. 3796gg-4.

**NCPVAW DISCUSSION GROUP**

Are you a prosecutor or allied professional involved in the prosecution of violence against women? Join the NCPVAW Yahoo! discussion group at http://groups.yahoo.com/group/apri-vawp

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Reporting Methods for Sexual Assault Cases

EVAW International
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Introduction

In this module, we will provide information for officers, deputies, and investigators who make the difficult decisions every day regarding how to record a report of a sexual assault. As part of this decision, the primary determination to be made is whether the sexual assault will be recorded with an official crime report or an informational report, although the specific language and procedures for each will vary by agency. As we will discuss in this module, the implications of this decision are very important, because they determine whether or not it will need to be officially cleared or closed once all of the investigative leads are exhausted.

Again, these decisions are often very difficult, yet many law enforcement personnel are provided little or no guidance in how to make them appropriately. Therefore, in this module we will walk through the various ways in which a sexual assault report can be received and recorded. This will include answering questions such as the following:

- What are the various methods for recording a report of a sexual assault?
- What is the difference between a crime report and an informational report?
- What is a “blind report?” Is it different from crime reports or informational reports?
- What are the implications of each reporting method for how a case is cleared or closed?
- What are the implications of VAWA 2005 for the community response system?

What are the Various Methods for Reporting a Sexual Assault?

In the module on Clearance Methods, we discuss the various ways in which a sexual assault case can be cleared or closed. But interestingly, one of the most important factors in determining how a sexual assault case is “closed” is the way in which it was “opened” (i.e., reported or recorded). Therefore, this module focuses on the various ways in which a sexual assault report can be received and recorded by a law enforcement agency.

As a first step, it is important to recognize the wide variety of ways a law enforcement agency receives information about a sexual assault incident.

- The most obvious route is for a victim of sexual assault to call 911 or come into the police department to report the crime. This may happen immediately following the rape, or after a delay of days, weeks, months, or even years.

- Alternatively, the crime may be reported to law enforcement by a friend, family member, or other third party. For example, parents often report to police that their teenager has been the victim of statutory rape. Second and even third party reports are also common, as in the example of a college student’s friend (or friend of a friend) reporting a sexual assault to police.
• If the victim contacts a medical professional, rape crisis counselor, or other service provider, this person may also report the crime to law enforcement. In some states, hospital personnel and other medical professionals are mandated to report such a crime to police, even if the victim does not want them to. (These issues will be discussed in detail later in the module.)

• Reports of suspected sexual assault also frequently come in to police from child protective services, child welfare services, teachers, and other professionals with mandated reporting status. In either case, the minor may deny that the sexual assault took place, but this type of reporting is also typically mandated by law.

Clearly, there are a number of ways in which a law enforcement agency can receive information regarding a sexual assault incident. Then agency personnel have a decision to make regarding how (or even whether) the information will be officially recorded in a written report. This decision is made differently in various law enforcement agencies across the country.

• In many law enforcement agencies, for example, responding officers and deputies are not required to write a report for every single sexual assault report. Rather, they are given discretion to write a report or not, based on a preliminary investigation and their own judgment of the sexual assault case and victim.

• In other agencies, sexual assault calls are immediately coded and/or assigned an incident number by communications (dispatch) personnel. This practice has become increasingly common with the advent of computer aided dispatch. If a report is written, the responding officer or deputy will do so after conducting a preliminary investigation.

• In still other agencies, responding officers are required to write a report for every single sexual assault call. In these agencies, officers are not allowed to clear from any sexual assault call without documenting it with a written report and obtaining an incident number. Often, they write this report and immediately obtain an incident number from the field. Again, this has become increasingly common as more officers are provided with computer terminals in their patrol cars.

**Record all reports in writing and assign a tracking number**

Yet despite this wide variety of practices in law enforcement agencies across the country, it is clear that best practice is that every report of a sexual assault incident must be recorded in writing and assigned some kind of number for tracking purposes and secondary review. No matter how informal the method of reporting is – even if information on the sexual assault is written down anonymously on a napkin and given to a police officer on his or her lunch break – it still must be recorded in a written report and assigned a number. Then the investigation can proceed, in order to determine whether the elements of a sexual assault crime are present.

• If the elements of a sexual assault crime are present, then it must be considered a report of a crime and investigated appropriately. This will obviously require follow-up contact with the victim.
• Even if the elements are not initially present, however, the information should still be recorded in writing and the victim should still receive follow-up contact. In some cases, this investigation and review will reveal that the elements of the crime were in fact met and that the incident should be recorded in an official crime report.

On the one hand, we recognize that some sexual assault reports are difficult if not impossible to investigate given the limited information provided. Yet even the most limited information can be documented with a written report and assigned a number, so it can be tracked by the agency and submitted for secondary review. The critical advantage of such a system is that officers and investigators can then be held responsible for the investigation and documentation of every single sexual assault call they receive. In addition, a written report may be needed for victims “to pursue protection orders, civil legal remedies, immigration self-petitioning, insurance benefits, and crime victim compensation claims” (Toolkit, Chapter 4, p. 3).

The need for follow-up contact with victims

Once a report of a sexual assault is recorded in writing and assigned a number for agency tracking, law enforcement professionals must then follow up with the victim to verify the information and offer appropriate services. The importance of this type of victim follow-up simply cannot be overstated. In fact, all victims deserve follow-up contact from the police department when a sexual assault crime is reported.

• In some cases, the only investigative action required may be to call the victim and offer the services of the agency. At the very least, such contact communicates support for the victim and conveys the message that the incident is taken seriously by the agency.

• This follow-up contact may be especially critical in cases where investigators initially believe that the victim is uncooperative. With time to process the assault, many victims find themselves in a better position to consider their various options for responding at a later time – including participating with a police investigation.

During this follow-up contact, officers and investigators have the opportunity to verify the accuracy of the information recorded in the written report and to provide additional resources and referrals for the victim. It is therefore critically important that the person providing this follow-up has specialized training in sexual assault investigation and the dynamics of sexual assault. In fact, such follow-up contact sometimes results in renewed investigative effort when victims decide that they are now able to provide more information or participate in the police investigation. Given the serial nature of most sexual assault offenders, reports may even be linked with crimes that have already been committed or crimes that may be committed in the future.
The critical importance of secondary review

Best practice thus dictates that all reports of a sexual assault be recorded in writing and assigned a number, and that all victims receive at least some kind of follow-up contact. Best practice also requires that the results of all sexual assault investigations must be submitted for some kind of secondary review, whether it is provided by a supervisor, co-worker, or other colleague with specialized training in sexual assault investigation. This is true even for incidents that are determined to not meet the elements of a sexual assault offense or when the victim is unable to participate in the investigation.

Even in cases where the initial report does not meet the elements of a sexual assault offense – or the victim is unable to participate in the investigation – the report should still be submitted for secondary review by a supervisor, co-worker, or other colleague with specialized training in sexual assault investigation. This is the only way for the agency to ensure that all sexual assault reports are recorded, investigated, and coded properly.

In large agencies, this type of secondary review may require simply assigning all sexual assault cases to a detective in the Sex Crimes Unit or to another investigator with specialized training in sexual assault investigation. Responding officers and deputies would then be required to document all sexual assault calls, but the follow-up investigation would be conducted by a specialized investigator. After the follow-up investigation is completed, the case file would then be submitted for secondary review by a supervisor in the Sex Crimes Unit or general Investigative Division if a specialized unit does not exist.

In small and/or rural agencies, the procedure may look different but the need for secondary review remains. For example, we all know that many small agencies do not have detectives or other specialized investigators. Thus, responding officers or deputies must handle the entire investigation of any sexual assault call they receive; this highlights the need for all responding officers and deputies to have at least some specialized training in sexual assault investigation. Yet even in small and/or rural agencies, it remains critically important for sexual assault case files to be submitted for some kind of secondary review, whether it is conducted by a supervisor, co-worker, or other colleague with specialized training in sexual assault investigation.

• To meet this objective, law enforcement professionals in small and/or rural agencies may need to develop a recognized team of experts within their area – whether from the surrounding county or larger geographic region. With email, teleconferencing, and other technology, there is simply no reason why officers or deputies in even the most rural areas cannot consult with others to determine the best course of action during a sexual assault investigation.

• This may be particularly important given the relative infrequency of sexual assault reports in small and rural law enforcement agencies. Because officers in small and rural agencies do not typically respond to sexual assaults very often, it is sometimes difficult to feel confident in the mastery of these complex and difficult investigations.
It is absolutely essential that all law enforcement agencies – both large and small – establish a procedure for ensuring that all sexual assault investigations are submitted for secondary reviews. In fact, best practice is to implement a multidisciplinary review committee, to ensure that established guidelines have been followed when it comes to clearance decisions. This review committee should include other members in the coordinated community response to sexual assault, such as victim advocates, forensic examiners, prosecutors, and others. The purpose is to review not only the unfounded sexual assault reports within a specified time frame, but also to discuss and review other sexual assault cases to determine the most appropriate response for victims whose cases are not likely to result in successful prosecution.

**Summary of best practices so far**

To summarize what we’ve covered so far:

- First, best practice dictates that law enforcement agencies must require all responding officers and deputies to document every report of a sexual assault incident with a written report – regardless of whether the crime is completed or attempted, or even if the incident does not meet the elements of a sexual assault offense at all. That way, every single sexual assault call will be documented with a written report and assigned a number that the agency can use for tracking.

- Second, best practice also dictates that law enforcement professionals must follow up with anyone who reports a sexual assault, in order to verify the information and offer appropriate services. As stated previously, all victims deserve follow-up contact from the police department when a sexual assault crime is reported, and it is ideal if this follow-up can be provided by someone with specialized training in sexual assault investigation whenever possible.

- Third, best practice also requires that the results of all sexual assault investigations be submitted for some kind of secondary review, whether it is provided by a supervisor, co-worker, or other colleague with specialized training in sexual assault investigation. This is true for both completed and attempted offenses, and even incidents that are initially determined to not meet the elements of a sexual assault offense.

Next, let’s go on to describe the two primary methods for recording information on a sexual assault incident: crime reports and informational reports.

**Crime Reports vs. Informational Reports**

When responding officers and deputies document every single sexual assault call with a written report, it is obviously important to differentiate those reports that constitute a crime from those that do not. Yet there are a variety of terms and procedures used by law enforcement agencies, which makes it difficult to compare practices across the country.
In some law enforcement agencies, crime reports are documented with a form that is entirely different from the one that is used to document incidents that do not meet the elements of a crime. These agencies may describe the former as a crime report,” “offense report,” “case report,” or “scored case” – and distinguish it from a report of an incident that does not meet the elements of a sexual assault offense. The latter may be described as an “incident report,” “informational report,” “officer’s report,” or with another term.

In other agencies, the same form is used for all sexual assault reports, but it is “scored” (or “coded”) as a crime when the elements of a sexual assault offense are present. They may use the same term to describe reports on sexual assault crimes and incidents that do not meet the elements of a sexual assault crime, or they may utilize different terminology for a report that is “scored” versus not “scored” (or “coded” versus “not coded” as a crime report).

Unfortunately, all of these different terms make it extremely difficult to talk about the different practices that law enforcement agencies use for reporting and clearing sexual assault cases.

Your terminology and procedures

So now let’s hear from you. First, on an issue of procedure: Does your agency require that responding officers or deputies document every single sexual assault call with a written report?

YES  NO

Now, what term does your agency use to refer to the written report that officers use to document a sexual assault call? Sometimes the same term is used for calls that constitute a crime and those that do not. Yet sometimes different terms are used, so we’ll ask about them separately.

First, what term does your agency use for a report of a sexual assault that was committed or attempted and meets the elements of a criminal offense?

Case report  Incident report  Crime Report  Scored Case

Offense Report  Other: ____________________________

Next, what term does your agency use for a report written to document an incident that does not meet the elements of a crime?

Case report  Incident report  Offense Report

Informational Report  Officer’s Report

Other: ____________________________
Our terminology

Throughout this module, we will use the terms “crime report” and “informational report” to describe the two primary reporting methods available to law enforcement agencies. Then we will use the term “incident report” or “incident number” generically to include both crime reports and informational reports.

- Obviously, the term “crime report” will be used to describe a written report documenting a call that is determined to meet the elements of a sexual assault offense.

- In contrast, the term “informational report” will be used to describe a report documenting an incident that does not meet the elements of a sexual assault offense.

- We will also use the term “incident number” generically, to refer to the number given to a case that may constitute either a crime report or informational report.

More on informational reports

So, at this point we have defined “crime reports” and distinguished them from “informational reports.” These are the two primary ways that a sexual assault case can be recorded by a law enforcement agency. Now let’s talk a bit more about informational reports, because the terminology and procedures vary for them dramatically across law enforcement agencies.

In general, informational reports provide a way for individuals to report information to police on an incident that does not meet the elements of a sexual assault crime. Sometimes these reports are made by citizens, and sometimes they are made by law enforcement professionals.

- When informational reports are made by citizens, they may have contacted the police because they believe that a crime was committed. Alternatively, the citizen may want to provide information to police about an incident that they know does not constitute a crime but believe may be of interest to law enforcement anyway.

- When made by law enforcement professionals, informational reports are typically used to record information on a suspicious individual or incident that the agency wants to document despite the fact that it does not meet the elements of a crime.

- Then of course many informational reports are filed, simply because the officer or deputy does not yet have enough information to determine whether the incident meets the elements of a sexual assault offense within that jurisdiction.

If used properly, informational reports offer a necessary means for law enforcement agencies to document certain incidents that do not (yet) properly constitute a crime report. Clearly, officers and investigators are often faced with challenging cases where the victim reports a sexual act that does not meet the elements of a specific offense.
• To illustrate, an adult might report to police a situation where they felt pressured or coerced into having sexual contact with another person, but the coercion did not meet the criteria for a forcible sexual assault. In such a situation, an informational report is probably the best way to document the incident.

• Informational reports are also likely to be appropriate in cases of mandated reporting by third or even fourth parties, where the victim denies the allegations.

In these kinds of situations, informational reporting is likely to be appropriate as long as the case file and determinations are carefully reviewed by a well-trained supervisor or colleague. This supervisor or colleague can then provide the type of follow-up victim contact that was previously described, to verify that the information recorded in the written report is correct, repeat the offer of agency services, and provide additional community referrals and resources. As long as the agency tracks every single report – and submits it for secondary review by a supervisor and/or other colleague with specialized training in sexual assault investigation – informational reporting can be an important and extremely effective procedure for law enforcement agencies.

**Problems in determining the proper reporting methods**

Unfortunately, there are two primary ways in which problems arise in the different reporting methods used for sexual assault cases. Both stem from the lack of training for responding officers and deputies, which often leaves them unable to properly identify whether or not an incident meets the elements of a sexual assault offense.

On the one hand, responding officers might write an official crime report for incidents that do not meet the elements of a sexual assault offense. This practice of writing crime reports for incidents that do not meet the elements of a sexual assault offense has increased in recent years.

• Many agencies are now using computer aided case tracking so that every incident is assigned a number for agency tracking. This practice has increased as a result of mandated reporting and third party reporting.

• Such reports often fail to meet the elements of a sexual assault offense, because they are not established either by the victim or the evidence. Therefore, they need to be recorded with an informational report and not a crime report. Yet some agencies do not have proper procedures for recording such informational reports and filing them separately from crime reports, so they are recorded (improperly) as an official crime report.

On the other hand, responding officers also have problems when they do not realize that the incident they are investigating actually does meet the elements of a sexual assault offense, even though it does not involve the use of force or fear. When the officer or deputy decides that the incident does not meet the elements of a sexual assault offense – when it actually does – the case will not be properly recorded in an official crime report (at least at that time).
• This again highlights the importance of following up with victims to verify the initial information obtained during the preliminary stages of the investigation.

• It also underscores the importance of having all sexual assault reports reviewed by a supervisor, co-worker, or other colleague with specialized training in sexual assault investigation.

In fact, most states now have laws prohibiting sexual acts with a person who is extremely intoxicated, incapacitated, severely disabled, unconscious, or otherwise physically helpless. Yet responding officers all too often focus only on the question of force or fear. If they cannot establish the element of force, they determine that the incident does not meet the elements of the offense and is therefore unfounded. Yet in many states, for incidents where the victim meets one of those criteria (extremely intoxicated, incapacitated, severely disabled, unconscious, or otherwise physically helpless), the element of force or fear need not be present to establish a sexual assault offense. Rather, the sexual assault offense is established solely on the basis of the victim’s intoxication, incapacitation, disability, helplessness, or unconscious state.

These problems highlight the importance of not rushing to judgment regarding whether to record an incident in an informational report versus a crime report. Rather, best practice requires implementing a system that allows the determination to be made later in the process, on the basis of findings from a thorough, evidence-based investigation. We will return to this issue of best practice in a moment. But first we want to address the issue of “blind reporting,” because it is the source of much confusion when it comes to reporting methods.

**Best Practices: Blind Reporting, Third Party Reporting, Victim Pseudonyms**

So now we have distinguished crime reports from informational reports, but we want to take a moment to discuss the issue of “blind reporting.” Although the issue is also discussed in the module on Victim Interviewing, it is addressed at length here because it is the source of much confusion when it comes to understanding proper reporting methods for sexual assault cases.

In general, the term “blind reporting” is used to describe the method for providing information to police about a sexual assault (or any other type of incident, for that matter) without recording any identifying information. Confidentiality of the victim is therefore maintained.

On the basis of such information, law enforcement personnel can then conduct a limited investigation, perhaps by checking to see if there are any other similar reports – either by geography or pattern of behavior. The agency can thus increase its intelligence on the realistic numbers and characteristics of sexual assault crimes taking place in a particular area. The information may also help investigators to link together sexual assaults committed by the same perpetrator, based on the similarities in the geographic region or patterns of behavior.

However, “blind reports” should not really be considered a separate type of reporting. Rather, blind reports only represent examples of a crime report or informational report, depending on whether or not the blind report meets the elements of a sexual assault offense.
• If a blind report meets the elements of a sexual assault offense, for example, it constitutes a crime report. The only difference from other crime reports would be that information in the case file would not include the identity of the victim.

• On the other hand, if the blind report does not meet the elements of a sexual assault offense, it is an informational report. Again, the only difference from other informational reports would be the lack of victim identification.

Of course, blind reports cannot result in successful prosecution of the crime without identifying information from the victim. However, a blind reporting system offers a number of important advantages for both victims and police. As summarized by Garcia and Henderson (1999):

• These benefits include the fact that law enforcement agencies and community-based organizations have a more comprehensive picture of sexual assaults being committed within the community. This helps to develop both prevention programs and community education, and it may help to identify serial offenders.

• Blind reporting also allows victims of crimes such as sexual assault to report to police without taking on the burden of participating in a full investigation. The investigation and the thought of prosecution can be terrifying to sexual assault victims, and it often prohibits them from contacting law enforcement at all.

• By providing information in a blind report, sexual assault victims can thus “try out” the investigative process and confirm for themselves that the incident was truly a crime. This can build the victim’s confidence in the system and establish a trusting relationship with the investigator, so the victim may decide that he or she can in fact take part in a full investigation.

• Other benefits of blind reporting include the fact that victims can sometimes receive crime victim assistance from the state, which can help to cover any costs associated with the crime and subsequent investigation.

• Of course, the process of reporting to law enforcement may also assist victims in the process of their recovery from sexual assault, by regaining a sense of control and personal autonomy.

Even for victims who choose to file a blind report, they may still be able to assist in the event that other victims report a sexual assault by the same offender. Although many victims feel unable to participate in a prosecution of their own sexual assault, they are often willing to act as a witness when there is another victim who is able to move forward with prosecution. This information and/or testimony can obviously be extremely helpful for investigators and prosecutors, because it helps to establish a pattern of behavior and prior bad acts by the suspect. All of these constitute very important reasons for agencies to have an effective procedure in place for receiving, recording, investigating, and filing blind reports of sexual assault.
For those agencies that have not already established a system for blind reporting system, Garcia and Henderson (1999) offer the following guidelines. Specifically, agencies seeking to establish an effective mechanism for blind reporting must:

- Uphold unconditionally a policy of confidentiality for those filing a blind report.
- Accept the information offered, even if it is less than the investigator would like.
- Accept the information whenever the victim might offer it.
- Accept information from third parties.
- Clarify options for future contact, including when and how victims may be reached. In some cases, this might be through a victim advocate or other service provider.
- Categorize the information contained in the blind report, so it can be easily retrieved and analyzed.

As a result of these many advantages, Garcia and Henderson (1999) concluded that: “In the long run, victims, investigators, and the community all benefit from blind reporting” (p. 12).

**Using a pseudonym**

In addition to blind reporting, some states have enacted laws to explicitly provide victims the option of using a pseudonym (i.e., false name) on all legal and medical documents associated with the sexual assault. This is the case in Texas, and as described in the Sexual Assault Advocate Training Manual developed by the Texas Association Against Sexual Assault (TAASA), there are a number of advantages and disadvantages to this practice.¹

- On the one hand, the primary advantage of using a pseudonym is that the victim may be protected to some extent from unwanted publicity. One of the commonly cited fears among sexual assault victims is that their name will appear in the press, and the use of a pseudonym can be sufficiently reassuring to victims that they will be able to report the crime and participate in the police investigation.

- However, even the use of a pseudonym cannot realistically be expected to protect the privacy of victims if the case goes to court. If the sexual assault investigation results in criminal prosecution, there will likely be enough information presented in court that the victim will be identifiable even when a pseudonym is used.

- A primary disadvantage of the practice, however, is that “a survivor who chooses to use a pseudonym may be less credible in the eyes of the legal system than a survivor who reports or files a complaint in his/her own name” (p. 111).
As the TAASA manual goes on to describe, having victims use a pseudonym on a police report of a sexual assault requires a number of policies and protocols – not only within the law enforcement organization but with other agencies and individuals as well. For example:

- “If a survivor chooses to use a pseudonym, all people and agencies involved in her/his case must receive a copy of the pseudonym form – the hospital emergency room and registration, the police or sheriff’s office, Crime Victim Compensation, her/his therapist, sexual assault programs, etc.” (p. 111).

- “Law enforcement agencies are encouraged to use the pseudonym form routinely and at first contact. If it is not proffered and the victim requests it later, all public records and court proceedings will need to be changed retroactively” (p. 111).

- “All press releases or statements about a sexual assault case should include a disclaimer that a pseudonym is being used” (p. 112).

Other recommendations for the implementation of this policy include the following:

- “We suggest that the word ‘pseudonym’ be used in place of the name on any public documents” (p. 111).

- “Please advise survivors that the name they choose will follow them through the criminal justice system. Care should be taken in the choice” (p. 111).

- “Also, the pseudo-address and phone number used should be that of the police department or sexual assault program or it should be left blank on the affected documents” (p. 111-112).

To illustrate, within the Austin Police Department, a Victim Services Counselor provides all victims of sexual assault with information on obtaining a pseudonym – both in writing and verbally. Although the agency is not required to provide this information verbally in addition to writing, the practice within the Sex Crimes Unit is to do so to ensure that it is truly understood by the victim. Then the victim is advised to choose a name, and the detective investigating the case goes through all of the documents and changes the victim’s actual name to the pseudonym. Obviously, the practice requires additional work for detectives, but Sergeant Elizabeth Donegan states that it represents best practice for law enforcement agencies because “it gives the victim a choice about whether she wants people to know she is a survivor.” According to Sgt. Donegan, the practice is used with increasing frequency now that the process is being explained verbally and not just described in a brochure that is handed to victims by a Victim Services Counselor.

A sample form for establishing a victim pseudonym is provided in the TAASA manual. On that form, there is a space provided on the form for the victim to give permission for the release of identifying information for specific purposes. Victims are therefore given the option of giving permission to release their name to any or all of the following agencies:
Once the form is completed by the victim, one copy should be retained by law enforcement, another should be provided to the victim, and a third should be included in the case file to be forwarded to the prosecuting attorney and probation or parole. For more information, the Sexual Assault Advocate Training Manual (2004) developed by the Texas Association Against Sexual Assault and the Office of the Attorney General is available on the Internet from VAWnet.org at: http://www.vawnet.org/SexualViolence/PreventionAndEducation/Training/SVPETraining1.php.

Other states have laws that allow victims to request that their name and other identifying information not be made available to the public. In that case, all reports include accurate information so they can be correctly archived and effectively searched in a database. However, for victims who request it, their name and any other identifying information are removed before any report is released. Then if there is a trial, victims can either testify in court either using a pseudonym (e.g., Jane Doe or John Doe) or using only their first name. This decision would be made by the victim and the prosecuting attorney in the case.

**Third party (anonymous) reporting**

Some law enforcement agencies even allow victims to file the blind reports with a third party such as the local rape crisis center instead of the police. This is another example of a best practice, although it is relatively uncommon. If this practice is implemented by a law enforcement organization, it will again require establishing policies and procedures in collaboration with the rape crisis center or other third party who is authorized to accept reports.

The primary advantages of third party (anonymous) reporting are that it provides yet another option for victims, and it ensures that law enforcement has a more realistic picture of the sexual assaults taking place in the community.

The primary disadvantages, however, are that third party (anonymous) reports will not typically result in anything but the most limited investigation by law enforcement and will not lead to criminal prosecution. One reason for this is that the reports are not typically accompanied by physical evidence, except perhaps photographs of any injuries that can be stored in an envelope. The agency or organization receiving the third party report will not generally have the capacity to store any other forms of physical evidence, including a “rape kit” completed as part of a medical forensic examination. However, best practice for agencies receiving any third party (anonymous) reports would be to establish this capacity by working in coordination with law enforcement agencies in the area. While it is not reasonable to expect community-based advocacy organizations or other similar agencies to store this evidence and properly maintain the chain of custody, law enforcement agencies can implement a protocol for receiving and storing such evidence that is provided along with the third party (anonymous) report and labeled only with the case number, pseudonym, or other anonymous identifier as specified in the protocol.
One exception would be the situation where a medical professional or victim advocate recognizes a serial offender and victims are contacted to see if they are willing to participate in a new investigation and prosecution. Victims are then given the option of either coming forward on their own case or agreeing to testify on the behalf of another victim.

- Another disadvantage is that victims are not typically eligible for Crime Victim Compensation if they file only a third party (anonymous) report.

- All sexual assault victims must therefore be informed of their rights as a crime victim, and advised specifically how these rights might be affected by their decision to file a third party (anonymous) report.

As an illustration, third party (anonymous) reporting is available for residents of Lawrence, Kansas. Anonymous reports of a sexual assault can be completed as part of the Rape Victim-Survivor Service (RVSS) at the GaDuGi SafeCenter in Douglas County, Kansas. These reports are then forwarded to the Lawrence Police Department. To provide a sense of how this program operates, the RVSS Protocol for Anonymous Reporting developed by the GaDuGi SafeCenter reads is provided in its entirety.

### GADUGI SAFECENTER: RVSS PROTOCOL FOR ANONYMOUS REPORTING

Revised 5.20.05

1. The RVSS Advocate should provide the victim-survivor with all of the information about making an official report to law enforcement. Make sure s/he is aware that completing an anonymous form will not make her/him eligible for funds from the Crime Victim Compensation Board and that no legal action can be taken against the perpetrator without an official report.

2. Find a safe, comfortable and confidential place to complete the form. The RVSS Advocate will be available for questions or can offer technical assistance pertaining to the anonymous report form. If a person needs assistance with reading questions, the RVSS Advocate can be available to help with that as well.

3. The name of the RVSS Advocate (first and last) should be on the completed form.

4. Ask the survivor is s/he would like to keep a copy of the anonymous report for his/her files. If so, make two (2) copies of the report. The original will go to law enforcement/detective division and will be assigned accordingly. One copy may be given to the survivor if s/he wants one. The third copy will remain with RVSS in a locked file specific to anonymous reports. The copy is sealed in an envelope with her/his first name and date of report.
5. Ask the survivor if s/he would be interested in having GaDuGi SafeCenter keep his/her name and phone number associated with the anonymous report.

**At NO TIME will the survivor’s name be given to law enforcement without the survivor’s consent.** The purpose of associating name(s) with the report is in the following events: future complaints are filed against the same individual, it is critical for a criminal investigation, or if it’s a matter of public safety. Law enforcement may contact GaDuGi SafeCenter for purposes of contacting the victim-survivor to inquire if s/he has changed the decision to report.

6. The original form along with any narrative statements written by the victim-survivor should be submitted to law enforcement for a call number to be assigned. If a call number is assigned, law enforcement will notify the RVSS Advocate for purposes of recording on the sealed copy of the anonymous report. There will also be a label attached to the envelope stating “The victim-survivor does/does not want anonymous report opened or read.” If narrative pages are attached a label will be attached that states “the following statement are my words only and by signing I verify this statement to be true” and signed by the victim-survivor.

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Additional recommendations provided by the staff of the RVSS program at the GaDuGi SafeCenter regarding anonymous reporting include the following:

- Allow victims the decision to either complete the form themselves, or have the advocate complete the form on their behalf. Either way, the forms must be completed in the presence of an advocate whose name will be recorded on the form (both first and last, as indicated in the RVSS protocol).

- Advise victims that they may use additional paper to complete their narrative, if there is not enough space on the form provided.

- Ask victims to cross out any mistakes while completing the report, and initial them.

- Record the time that the victim starts and finishes preparing the report.

For additional information on this protocol for third party reporting, please contact the Lawrence Police Department and/or the GaDuGi SafeCenter in Douglas County, Kansas. A brief description of the protocol is also provided at the agency’s website, along with a discussion of advantages and disadvantages for victims at: [http://www.gadugisafecenter.org/reporting.htm](http://www.gadugisafecenter.org/reporting.htm).
Putting It All Together

To summarize what we have discussed so far, it is clear that best practice is for law enforcement agencies to require responding officers or deputies to document all sexual assault reports in writing – regardless of whether this report is a crime report or informational report, whether it is completed or attempted, and whether the victim provides any identifying information. That way, every single sexual assault report will be documented and assigned a number that the agency can use for tracking, evaluation, and supervisory review. Yet the reality is, not all sexual assault reports will be classified properly the first time.

For one thing, many responding officers and even investigators do not have sufficient training to properly identify when a reported incident meets the elements of a sexual assault offense, and whether it should be documented with a crime report or an informational report. Therefore, some crime reports might actually describe incidents that do not meet the elements of a sexual assault offense and some informational reports might actually record criminal behavior.

Furthermore, even the best-trained officer or investigator cannot always determine whether an incident meets the elements of a sexual assault crime until a thorough, evidence-based investigation has been completed. A preliminary investigation is often insufficient to make that determination, either because the victim is unclear as to what happened (as is often the case in suspected drug facilitated sexual assaults or sexual assaults involving victims with developmental disabilities) or because the victim is simply unable to communicate with police at that time.

Therefore, while every single sexual assault call should be documented with a written report and assigned a number for agency tracking, the decision to document the call with a crime report or an informational report is often best left for later in the investigative process. The same is true for decisions regarding which specific crime code(s), if any, were involved. In fact, these determinations can only be made properly on the basis of the findings from a thorough, evidence-based investigation. Then of course they also need to be reviewed by a supervisor, co-worker, or other colleague with specialized training in sexual assault investigation to ensure that the incident was recorded, coded, investigated, and cleared appropriately.

- Best practice is thus to record all sexual assault calls with a written report.

- Then the determination regarding whether or not to “score” it as a crime report – and which crime code(s) if any are involved – can be made based upon the findings from a thorough, evidence-based investigation and secondary review conducted by a supervisor, co-worker, or other colleague with expertise in sexual assault investigation.

This type of procedure allows the most flexibility in determining whether or not an incident meets the elements of a sexual assault offense, based upon the investigative facts and not the preliminary judgments of the victim or crime that might be made by the responding officer.
Of course, the process must also be designed to be flexible enough to accommodate changes in the determination of whether the report is a crime report versus an informational report and what crime code(s), if any, are involved. The reality is, many sexual assault reports that are initially filed as informational reports may later become official crime reports.

- In some cases, victims later decide that they are able to participate in a full police investigation, when they were initially unable to do so.

- In others, additional information becomes available that requires re-categorizing an informational report as a crime report and launching a full police investigation with an eye toward criminal prosecution.

It is therefore essential to implement a system that is flexible enough to accommodate changes in whether an incident is recorded with an informational versus a crime report, and what (if any) crime code(s) are involved. This is particularly important now that many states are abolishing or extending the statute of limitations because DNA technology provides the opportunity to identify suspects years – even decades – after the crime. Clearly, it is in the best interest of victims and communities to have such cases recorded in an informational report just in case further investigation or additional information reveals later that the elements of a sexual assault offense were in fact met. In such a situation, the status of the informational report can be changed to a crime report and the investigation simply re-activated. Now, let’s turn our attention to a brief summary of the implications of the various reporting methods on how (or even whether) the case will need to be closed.

**Implications for Whether/How a Case will be Closed**

As stated at the beginning of this module, one of the most important factors used to determine how a sexual assault case is “closed” is the way in which it was “opened” (i.e., reported or recorded). This module therefore focuses on the ways in which a sexual assault report can be received and recorded by a law enforcement agency (i.e., “opened”), while the module on Clearance Methods will address the ways in which it can be officially cleared or otherwise “closed.” However, as we conclude this module it is worth noting that the decision to record an incident with an official crime report versus an informational report will determine whether or not a case needs to be closed at all.

- If a sexual assault is recorded in an official crime report, for example, it will need to be either (1) cleared or otherwise closed, or (2) suspended or temporarily inactivated, based upon agency policies and practices. These policies and practices are discussed at length in the module on Clearance Methods.

- If a sexual assault is recorded in an informational report, however, it may not need to be cleared or otherwise closed at all. This would depend on the specific policies and practices of the individual law enforcement agency.
VAWA 2005 and the Implications for Community Response to Sexual Assault

Before we conclude our discussion of the various reporting methods for victims of sexual assault, it is important to discuss new legislative developments that will have implications for the way community response systems work. In 2005, Congress reauthorized the Violence Against Women Act of 1994 in legislation commonly referred to as VAWA 2005. The purpose of this discussion is to describe some of the provisions that will have an impact on how communities respond to sexual assault. In particular, we will focus on provisions specifying that:

1. States must pay for forensic exams for victims of sexual assault, in order to remain eligible for STOP Violence Against Women Formula Grants (commonly referred to as STOP Grant funds).

2. States have discretion regarding whether or not to cover the costs for medical testing and treatment conducted as part of a forensic exam.

3. States may now use federal STOP Grant funds to pay for forensic exams as long as they are performed by trained examiners and the costs are not billed to victims or their private insurance.

4. To remain eligible for STOP Grant funds, victims cannot be required to participate in the criminal justice system in order to obtain a forensic exam.

We will describe each of these provisions in a bit more detail, and then explore their implications. Unfortunately, the issues involved are rather complicated, because they are also intertwined with the questions of whether forensic exams are authorized by law enforcement and whether medical professionals are mandated by law to report sexual assault. So, let’s get started.

(1) States will pay for forensic exams of sexual assault victims

Under VAWA 2005, grantees of the STOP Violence Against Women Formula Grant Program must meet certain requirements concerning payment for the forensic medical exam in order to receive funds. Specifically, the State, Territory, or the District of Columbia must certify that it or another governmental entity "incurs the full out-of-pocket cost of forensic medical exams" for victims of sexual assault. If one part of a State or Territory, such as a county or city, is forcing victims to incur these costs, then the State or Territory will not be able to certify and will be ineligible for the grant funds. For the purposes of VAWA 2005, a sexual assault forensic examination is defined as including, at a minimum:

- examination of physical trauma
- determination of penetration or force
- patient interview; and
- collection and evaluation of evidence [28 C.F.R. § 90.2(b) (1)]
(2) **States have discretion regarding payment for medical testing and treatment**

VAWA 2005 also states that “the inclusion of additional procedures (e.g., testing for sexually transmitted diseases) to obtain evidence may be determined by the state ... in accordance with its current laws, policies, and practices” [§90.2(b)(2)]. In other words, although VAWA 2005 requires states to pay for the forensic aspects of the exam (as defined above), they are given discretion regarding whether to pay for medical aspects of the exam. The practice therefore varies both as a result of state laws and specific practices within the community.

Victims of sexual assault may find that all, none, or some of the costs for medical testing and treatment procedures are covered.

Even for those states that do use state funds to pay for medical services provided as part of a forensic examination (as opposed to evidence collection), these expenses will often be paid through the existing Crime Victim Compensation fund. Victims may therefore be required to pay for the costs of medical testing and treatment upfront, and then submit an application to be reimbursed through the Crime Victim Compensation Fund.

Unfortunately, the eligibility criteria for most state Crime Victim Compensation funds require victims to report the sexual assault in a timely manner (often 72 hours to 5 days) and cooperate with the criminal justice system. As we all know, victims of sexual assault typically report to law enforcement after a delay of days or weeks (if they report at all), and many decide that they are unable to actively participate in the investigation and prosecution of their sexual assault. Therefore, even if medical services are reimbursed using state funds, the eligibility criteria for the Crime Victim Compensation funds will often limit the availability of these funds for many victims of sexual assault. Community professionals may therefore need to explore any existing exemptions to these eligibility requirements, such as explaining why victims had “good cause” to delay reporting.

(3) **The cost of forensic exams cannot be billed to victims or their insurance**

Another important provision of VAWA 2005 is closely related to this issue of payment. Specifically, states may now use federal STOP Grant funds to pay for forensic examinations of sexual assault victims as long as they are performed by trained examiners and victims are not required to seek reimbursement from their own private insurance for the cost of the exam. Therefore, although the current protocol in some states and communities is to bill victims or their private insurance for the cost of a sexual assault forensic examination first, this practice may disappear as alternative legislation and protocols are developed.

(4) **Victims cannot be required to participate in the criminal justice system**

A fourth provision of VAWA 2005 specifies that any state receiving STOP Grant funds cannot “require a sexual assault victim to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical examination, reimbursement for charges incurred on account of such an examination, or both.” States violating this provision
will not be eligible to receive continued STOP Grant funding. This is where the issues get particularly complicated, so we’re going to unpack them separately.

**Complicating factors**

On the surface, it seems clear enough that VAWA 2005 requires states to pay for forensic exams of all sexual assault victims, regardless of whether they report the crime to law enforcement or participate in the subsequent investigation or prosecution. Yet it is not entirely clear at this point how this requirement will be reconciled with other state laws specifying that all forensic exams must be authorized by law enforcement and mandating that medical professionals (including forensic examiners) report any sexual assaults that are committed against one of their patients.

Therefore, we will now turn toward an explanation of how these VAWA 2005 provisions are intertwined with the questions of (1) whether medical professionals are mandated by state law to notify law enforcement of sexual assaults that are committed against their patients; (2) whether a forensic examination must be authorized by law enforcement before it can be conducted, and; (3) who pays for forensic examinations.

**Mandated Reporting by Medical Professionals**

In some states, medical professionals are mandated by state law to notify law enforcement of any sexual assault that is committed or suspected against one of their patients. These laws vary dramatically in terms of what triggers the mandated reporting requirement, what information must be reported, who must be notified of the report, and what specific procedures must be followed to comply with this mandated reporting requirement. In order to clarify these complex issues, the American Prosecutors Research Institute (APRI), through their National Center for the Prosecution of Violence Against Women, recently released a report entitled: “Rape and Sexual Assault Reporting Requirements for Competent Adult Victims” (2005).

To find out whether or not your state has a law mandating medical professionals to report suspected cases of sexual assault to law enforcement, see the interactive map created by the American Prosecutors Research Institute through the National Center for the Prosecution of Violence Against Women at http://www.ndaa.org/apri/programs/vawa/state_rape_reportings_requirements.html.

**Summary of state laws regarding mandated reporting**

As summarized in the APRI (2005) report, some states have laws explicitly requiring medical professionals to notify law enforcement officials of any suspected sexual assault against a competent adult victim. In these states, the victim does not decide whether or not the sexual assault will be reported to law enforcement.

Most state laws also require medical professionals to report a sexual assault committed against any victim who is a minor, or vulnerable based on their advanced age, severe disability, or other factors. Most state laws also require mandated reporting of any sexual assault committed
by a caretaker or other authority figure, although the exact provisions of these reporting requirements vary by state.

Other state laws require medical professionals to report any non-accidental or intentional injury against competent adult victims, including those caused by violent crime. However, it remains unclear whether some of these state laws require medical professionals to report a sexual assault against a competent adult victim that did not result in any physical injury other than the sexual assault itself.

Other states have laws requiring medical professionals only to report certain types of injuries against competent adult victims, such as “injuries caused by firearms, stab wounds, or non-accidental wounds caused by a knife or sharp pointed instrument, injuries caused with a deadly weapon and burns, among others” (APRI, 2005, p. 9). Therefore, medical professionals would only be required to notify law enforcement of a sexual assault if it involved this type of specific injury; otherwise reporting would remain the victim’s decision.

For those states with no mandated reporting requirement regarding the sexual assault of a competent adult victim, it typically remains the victim’s decision regarding whether or not the crime will be reported to law enforcement officials. However, some hospitals or other forensic exam facilities may have a policy of reporting sexual assaults, even when they are not mandated to do so by state law.

Not the time to ask victims about prosecution or even reporting

It is important to note that – regardless of the law in your state – mandated reporting requirements for medical professionals never require a victim to actually talk with law enforcement professionals or to participate in an investigation or prosecution. The reporting requirement simply mandates that the health care provider provide information about the sexual assault to law enforcement authorities (the information that is provided and the procedure for doing so also varies by states).

Therefore, regardless of whether or not a mandated report is made by medical professionals, they should never ask sexual assault victims whether or not they want to report the crime to law enforcement or “press charges” with criminal prosecution.

Best practice is for health care providers (including forensic examiners) to simply ask sexual assault victims whether they are willing to talk with a law enforcement officer about what an investigation might look like and what criminal justice outcomes might realistically be expected.

Are victims identified in a mandated report?

In states with mandated reporting requirements for competent adult victims of sexual assault, victims are not the ones to decide whether or not the sexual assault will be reported to law enforcement. Medical professionals in these states are mandated to report the sexual assault to law enforcement, irrespective of the victim’s wishes. Yet some of these mandated reporting laws
do not require that any identifying information be provided. Therefore, the law in these states requires only a **blind (anonymous) report** be filed with law enforcement officials.

This is where the VAWA 2005 provisions intertwine with information provided earlier in this module. Meeting the requirements of these new VAWA 2005 provisions may require implementing some of the best practices we have already discussed, such as blind reporting, third party reporting, and reporting with a victim pseudonym.

In other states, the law requires medical professionals to provide the **victim’s identity** to law enforcement, along with other basic information about the sexual assault. Again, these laws still leave it up to the victim to decide whether or not to talk with law enforcement professionals or participate in an investigation and prosecution.

**The need for community-wide protocols and outreach efforts**

In summary, state laws differ with respect to whether or not they require medical professionals to report a sexual assault that has been committed or suspected against one of their patients. However, the details of these mandated reporting requirements vary dramatically. Professionals from within law enforcement and health care must therefore work together to clarify their own understanding of state laws regarding mandated reporting and develop a community-wide protocol for complying with the requirement. Then the community will need to engage in outreach efforts to inform mandated reporters of their responsibilities and create procedures for filing mandated reports. This may include the following (these are quoted directly from the *National Protocol for Sexual Assault Medical Forensic Examinations* published by the Office on Violence Against Women):

- Develop **public information initiatives** on mandatory reporting – mandatory reporters need to know applicable statutes regarding reporting sexual assault cases that involve older vulnerable adults, persons with severe disabilities, and minors.

- A **toll-free hotline number** exclusively dedicated to abuse reports may also help simplify reporting and ensure a written report of each case and referrals to appropriate agencies. Such a hotline could be operated at a State, tribal, regional, or local level.

In **institutional settings** such as prisons, jails, immigrant detention centers, nursing homes and assisted living programs, inpatient treatment centers, and group homes, ensure that victims can report assaults to outside agencies and are offered protection from retaliation for reporting.

In each case strive to create an environment in which **victims are encouraged to report and are supported** – throughout the criminal justice process and beyond.
Even in those cases that do not develop beyond an initial report to the police, victims should feel that they are respected (National Protocol, 2004, p. 48).

Whatever the specific reporting requirements, they must be clearly explained to mandated reporters (so they know how to comply) and to victims (so they know what to expect from the process). Victims must also be notified of what triggers a mandatory report and what information would be provided. However, they must also be informed that even a mandatory report does not obligate them to talk with law enforcement professionals or participate in the investigation or criminal prosecution, as we have already discussed.

Law Enforcement Authorization of Forensic Exams

Another important element that complicates the implementation of the new VAWA provisions is the fact that state laws vary in whether or not they require forensic exams to be authorized by law enforcement personnel before they can be conducted.

Summary of state laws regarding law enforcement authorization

In some states, the law requires law enforcement authorization of any forensic examination, so victims of sexual assault must report the crime to law enforcement in order to obtain a forensic examination. The rationale for this type of requirement is that part of the role of law enforcement is to determine whether the elements of a crime have been met, and whether a forensic examination of the victim would constitute an appropriate step in the ongoing investigation. This determination will be based on law enforcement expertise in the various penal code definitions and elements of criminal sex offenses, as well as an understanding of forensic evidence and the likelihood of recovering probative evidence and information in a forensic examination given the specific circumstances of any particular case.

• In most cases, this does not mean that the victim has to participate in the resulting investigation or prosecution, but simply that the crime must be reported to law enforcement personnel so they can authorize the forensic examination.

• This is typically the case when local law enforcement agencies or other government entities have the responsibility for paying for the costs of the forensic examination.

In other communities, however, victims can obtain a forensic examination without authorization by law enforcement. This practice will be discussed in detail later.
The question of timelines for the forensic examination

In communities where the forensic examination must be authorized by law enforcement, state law, agency policy, or local protocols may specify certain timelines for how many hours after a sexual assault incident a forensic examination will be authorized.

For the purposes of this discussion, however, it is sufficient to note that the forensic examination must be authorized by law enforcement personnel in many communities, and the decision may be based on timelines that are specified in state law, agency policy, and/or community protocols.

Forensic examinations without law enforcement involvement

In other communities, victims can obtain a forensic examination without authorization by law enforcement, although the specific practices vary dramatically. For example, victims in some communities may be able to obtain a forensic examination simply by presenting to their hospital emergency room or to a specialized free standing facility. This typically occurs when forensic examinations are paid for by the hospital or other facility conducting the examinations, rather than by law enforcement or another government entity.

Of course, keep in mind that the medical professional conducting the forensic examination may be required by state law to report any suspected case of sexual assault to law enforcement – even if the forensic examination does not need to be authorized by law enforcement.

However, this will likely change in light of the new VAWA 2005 provisions. Communities who do not already have protocols in place for conducting forensic examinations without law enforcement involvement will need to do so in the near future, or the state could potentially lose critically needed STOP Grant funding for programs addressing violence against women.

Need for protocols regarding forensic exams without law enforcement

When forensic examinations are conducted without law enforcement’s involvement, community professionals will therefore need to work together to develop detailed policies regarding:

- What timelines will be used for conducting the forensic examination, and what criteria will be used for extending this timeline based on the facts of the case
- How long evidence will be stored at the facility before it is destroyed – or whether a mechanism will be developed to transfer the evidence to law enforcement for long term storage
- What measures will be taken to protect the integrity of evidence and chain of custody
Appendix # 5 - Reporting Methods for Sexual Assault Cases (Archambault and Lonsway)

- Whether and how victims will be contacted for follow-up
- Whether and how any DNA evidence will be submitted to the national DNA databank (the FBI Laboratory’s Combined DNA Index System known as CODIS)
- What provisions will be included in the consent form to be signed by victims

The question of evidence storage

Unfortunately, in many communities, evidence from any forensic examination that is conducted without law enforcement involvement might be retained for only a very short period of time at the exam facility. However, best practice in this type of situation is for the evidence to be held for the entire period of time covered by the statute of limitations for the crime – because sexual assault victims who have not filed a report may need months, if not years, before they have the emotional resources needed to even attempt to navigate the criminal justice system.

- This poses a challenge, because hospitals and other forensic exam facilities are not equipped for this type of long-term evidence storage.
- Community-based advocacy organizations or other similar agencies also cannot store this evidence for a long time and properly maintain the chain of custody.
- Such long-term storage is even challenging for law enforcement agencies, because managers and supervisors of property storage rooms typically believe that they do not have sufficient storage space to meet this ideal.

Particularly in those states where the statute of limitations for sexual assault has been extended or abolished, this recommendation for best practice could cause serious problems for the long-term storage of evidence. Yet it does not make sense to ask victims to go through the process of a forensic examination if the evidence is going to be destroyed in a matter of days or weeks, before they have had sufficient time to decide that they are able to file a formal report and participate in the process of an investigation. It is therefore clear that any community seeking to implement a protocol for conducting forensic exams without a police report must work together to address questions of receiving, storing, archiving, and retrieving the evidence in these cases.

Who Pays for the Forensic Examination?

Related to the issue of whether or not law enforcement must authorize a sexual assault medical forensic examination is the question of who pays for it.

- For example, in many communities, the cost of a forensic examination comes out of the budget of the local law enforcement agency or prosecutor’s office. This is often the case when the need for a forensic examination must be evaluated and authorized by law enforcement before it can be conducted.
In other communities, the cost is covered by: the hospital or other medical facility conducting the forensic examination; city, county, or state government; state crime victim compensation program; the victim’s private insurance; or the victim him- or herself. (Recall that the new provision of VAWA 2005 will likely put an end to the practice of billing victims or their private insurance for the costs of a forensic exam.)

Yet in some of these communities, costs are only covered for the forensic components of the examination, and not medical evaluation and treatment. This is likely to be in communities where the costs are covered by a governmental entity such as the local law enforcement agency, prosecutor’s office, or the city, county, or state government, or the state crime victim compensation program. This issue was discussed already.

Some state laws specify who pays for forensic exams

Again turning to the recent summary by the National Center for the Prosecution of Violence Against Women at the American Prosecutors Research Institute (APRI, 2005), a number of states have laws pertaining to the payment for forensic examinations. However, the exact provisions of these laws vary dramatically. Other states do not have any laws outlining who will pay for sexual assault medical forensic examinations.

In most of the states with laws explicitly addressing this question, the statute specifies that forensic examinations will be paid for by the local law enforcement agency or crime victim compensation fund. Yet some of the state laws indicating that the crime victim compensation fund will pay for forensic examinations have severe limitations. For example, some of these state laws indicate that sexual assault medical forensic examinations will only be paid for if:

- the victim reports to law enforcement
- the report is made within a specified time period (ranging from 72 hours to 5 days)
- the forensic examination is authorized by law enforcement and/or
- the forensic examination is approved by the local prosecutor

It is currently unclear how these requirements will be reconciled with the new provisions of VAWA 2005, but it appears that states will need to revise these requirements in order to comply with the new federal legislation and remain eligible for STOP Grant funding.

Some state laws specify only who will NOT pay for forensic exams

Other state laws simply indicate that forensic examinations will not be billed to victims or their private insurance, without specifying exactly which entity will cover the costs. This type of legislation clearly complies with the new provision of VAWA 2005 by specifying that victims cannot be required to pay for their forensic examination or seek reimbursement from their own private insurance. This means that victims cannot be charged for any of the costs associated with a forensic examination conducted for the purpose of gathering evidence of a sexual assault.
However, the fact that these state laws do not specify who will pay the costs is a source of considerable concern. It is therefore up to communities, regions, and states to develop appropriate protocols for designating the source of payment for medical forensic examinations. This is clearly a task that must be undertaken with collaboration between all of the various disciplines involved in responding to sexual assault victims, such as law enforcement, prosecution, health care, and victim advocacy. In fact, these disciplines might need to work collaboratively to develop model language for a new or revised state statute regarding the payment for forensic examinations.

To find out whether your state law specifies who pays for forensic exams, please see the interactive map developed by the American Prosecutors Research Institute at http://www.ndaa.org/apri/programs/vawa/state_rape_reportings_requirements.html.

How the question of payment affects other issues

Of course the question of who pays for the forensic examination will also affect a number of other issues, such as whether or not law enforcement is notified and whether or not the victim can retain confidentiality.

• For example, if the forensic examination is paid for by a law enforcement agency or prosecutor’s office, their protocols will typically require that they be notified of the incident in order to authorize payment in advance. The forensic examination will then not typically be confidential; it will result in a formal report with the victim’s name and other identifying information. There may be certain protections of the victim’s privacy based on state law, agency policy, or local protocol. However, the report will not usually be anonymous, unless it is received by the law enforcement or prosecution agency as a “blind report” (e.g., using a pseudonym such as “Jane Doe” or an identification number).

• On the other hand, forensic examinations that are conducted at a freestanding facility and paid for by another source may take place without notifying law enforcement and regardless of whether the victim chooses to make a report. This would depend on whether state laws require mandated reporting to law enforcement and/or whether community protocols specify a procedure for handling confidential forensic examination results and the evidence collected.

• Finally, although VAWA 2005 now prohibits the practice, some communities have had a policy of first billing the victim’s private insurance for reimbursement of the costs associated with a forensic examination. Of course, this practice poses a serious threat to the victim’s confidentiality, which is an important reason why it is now prohibited. For victims who share insurance coverage with a spouse, parent(s), or other family members, it may be impossible to keep these people from finding out about the forensic examination (and therefore the sexual assault) – because the reimbursement will show up on the insurance statement or other
records. This can be a particular concern for students, who are often included on their parents’ insurance policy.

Clearly, law enforcement investigators, forensic examiners, and victim advocates need to understand these complicated issues, so they can explain to victims the consequences of their decisions – regarding whether or not to have a forensic examination and whether or not to report the crime to law enforcement. In particular, community professionals must be able to explain to victims the consequences of these decisions as they pertain to questions of payment for any costs of the forensic exam and the confidentiality of their exam findings. Victims may also need to be referred to either community-based or system-based advocacy organizations for assistance in applying for reimbursement through the crime victim compensation fund.

Because these issues are complex and determined in large part by state law, agency policies, community protocols, and local resources, they must be carefully addressed by each community through their Sexual Assault Response and Resource Team (SARRT) or other coordinated effort.

For More Information

To find out more about these complicated issues, and the implications for your state, please see the following resources:


- **Rape and Sexual Assault Reporting Requirements for Competent Adult Victims** (2005). Also see the interactive map created by the American Prosecutors Research Institute through the National Center for the Prosecution of Violence Against Women at [http://www.ndaa.org/apri/programs/vawa/state_rape_reportings_requirements.html](http://www.ndaa.org/apri/programs/vawa/state_rape_reportings_requirements.html)


Summary of Best Practices

We have already described a number of best practices in the area of sexual assault investigation. However, before we conclude this module we would like to take a moment to summarize them and spotlight other “promising practices” that law enforcement agencies have devised across the country to address issues of reporting methods. These include the following.

(1) **Documenting all reports of sexual assault in writing, with an incident number assigned.** Best practice dictates that all sexual assault reports be documented in writing, regardless of how they are reported to the agency, whether they are recorded as an informational report or crime report, and whether the victim provides identifying information or not (i.e., a “blind report”). By creating written documentation and tracking all of these reports with an incident number of some
kind, the agency can provide a comprehensive picture of the ways in which all sexual assaults are reported to the agency, how they are recorded, which crime code(s) are involved, and how they are resolved. Written reports are also needed for victims “to pursue protection orders, civil legal remedies, immigration self-petitioning, insurance benefits, and crime victim compensation claims” (Toolkit, Chapter 4, p. 3).

(2) Establishing a procedure for filing informational reports, in order to document cases that do not meet the elements of a sexual assault offense. As discussed in this module, informational reports may not always result in a full investigation, but even a limited investigation can provide information to police that they would not otherwise have. Thus, all informational reports must be recorded in writing, assigned an incident number of some kind, then investigated to the extent possible, and forwarded to a supervisor, co-worker or other colleague with specialized training in sexual assault investigation for secondary review. As a result of such secondary review, the status of an informational report is often changed to a crime report, when it is determined that the elements of the offense were in fact met.

(3) Implementing a clear protocol for “blind reporting,” for citizens, community-based organizations (or officers) who want to provide information to police confidentially. Keep in mind, however, that blind reports are not actually a different kind of report than those discussed throughout this module (i.e., informational reports and crime reports). Rather, blind reports are simply a specific kind of informational report or crime report, where the reporting party either does not provide information on their identity or asks that their identifying information be kept confidential. When establishing a procedure for blind reporting, agencies must therefore uphold unconditionally the confidentiality of those filing a blind report, clarify the options for future contact, and record the information so it can be easily retrieved and analyzed.

(4) Requiring that an officer or investigator follow up with anyone whose sexual assault victimization is reported to law enforcement. Once a report of a sexual assault is recorded in writing and assigned a number for agency tracking, law enforcement professionals must then follow up with the victim to verify the information and offer appropriate services. It is therefore critically important that the person providing this follow-up has specialized training in sexual assault investigation. In fact, such follow-up contact sometimes results in renewed investigative effort when victims decide that they are now able to provide more information or participate in the police investigation.

(5) Assigning all sexual assault reports for secondary review by a supervisor, co-worker, or other colleague with specialized training in sexual assault investigation. In large agencies, this secondary review might be provided by a detective in the Sex Crimes Unit, or another specialized investigator or supervisor. In small and rural agencies, this secondary review can be accomplished through consultation with an advisory board or other colleagues in the area with recognized expertise in sexual assault investigation. Even in the most remote areas, this type of consultation can take place by telephone or email, with input provided by an advisory board, colleague, or mentor of some kind. Regardless of how it takes place, such secondary review is critically important to determine whether appropriate decisions were made regarding how to record, investigate, code, and clear or otherwise close the case, or whether it should actually be left open but suspended or temporarily inactivated.
(6) Training officers in the elements of sexual assault offenses, so they can better identify
incidents that meet the criteria – even if they lack the particular element of force or fear.
In many states it is illegal to engage in sexual activity with someone who is extremely
intoxicated, incapacitated, severely disabled, unconscious, or otherwise physically helpless even
if the intoxicating substance is not administered covertly by the suspect. In these situations, the
element of force or fear does not need to be met for the act to constitute a sexual assault offense.

(7) Developing policies and procedures to conform with new provisions of VAWA 2005.
This will require developing protocols to address payment for forensic examinations, clarifying
whether costs will be covered for medical testing and treatment, ensuring that costs are not billed
to victims or their private insurance, and implementing procedures that do not require victims to
participate in the criminal justice system.

(8) Developing community-wide protocols for conducting forensic exams without law
enforcement involvement. This will require addressing issues such as examination timelines,
evidence storage, informed consent, victim follow-up, and submission of DNA evidence into the
national databank (CODIS).

(9) Training community professionals on state laws regarding mandated reporting and
developing a community-wide protocol for compliance. Victims must also be notified of what
triggers a mandatory report and what information would be provided. However, they must also
be informed that even a mandatory report does not obligate them to talk with law enforcement
professionals or participate in the investigation or criminal prosecution.

(10) Training community professionals not to ask victims if they want to report the crime
or “press charges.” Rather, victims can simply be asked whether they are willing to talk with
a law enforcement officer about what an investigation might look like and what criminal justice
outcomes might realistically be expected.


Additional best practices are discussed in the recently released National Protocol for Sexual
Assault Medical Forensic Examinations (2004). These are quoted directly below, and they
require collaborative effort with professionals from a variety of disciplines within the
community. Law enforcement professionals are perhaps particularly well suited to take the lead
on these initiatives, given their mission of holding offenders accountable for their sexual assault
crimes. In reality, one of the best strategies for holding more offenders accountable is ensuring
that more victims of sexual assault feel safe about coming forward. These recommendations
thus provide the perfect place to end this module, to implement best practices community-wide.

- Develop jurisdiction wide public information initiatives on mandatory reporting –
mandatory reporters need to know applicable statutes regarding reporting sexual
assault cases that involve older vulnerable adults, persons with disabilities, and
minors. A toll-free hotline number exclusively dedicated to abuse reports may
also help simplify reporting and ensure a written report of each case and referrals
to appropriate agencies. Such a hotline could be operated at a State, tribal,
To encourage both reporting and follow-through, protective agencies that investigate these cases should work collaboratively with local law enforcement agencies to ensure that each case is dealt with in the best possible manner and that further harm does not occur (p. 48).

- In institutional settings such as prisons, jails, immigrant detention centers, nursing homes and assisted living programs, inpatient treatment centers, and group homes, ensure that victims can report assaults to outside agencies and are offered protection from retaliation for reporting (p. 48).

- In each case, strive to create an environment in which victims are encouraged to report and are supported throughout the criminal justice process and beyond. Even in those cases that do not develop beyond an initial report to the police, victims should feel that they are respected (p. 48).

After steps have been taken to identify and remove barriers to reporting sexual assault, educate the public about the potential benefits of reporting, how to go about reporting, what happens once a report is filed, and jurisdictional legal advocacy services available (if any) for sexual assault victims. Build upon already existing public awareness efforts of local advocacy programs (p. 48).
References


ENDNOTES


Appendix 6 - VAWA Forensic Compliance Survey Results

VAWA Forensic Compliance Project

Forensic Evidence Collection: Policies and Systems

Survey Results
Forensic Evidence Collection
Policies & Systems: *The Process*

**Survey Tool Development**

Drafted
* Piloted at OVW Conference

Refined
* Web-based

Distributed
* STOP Administrators
* Coalition Executive Directors
Forensic Evidence Collection: Policies & Systems

Survey Responders

N = 60

- N= 60
  There were a total of 60 Survey Responders

- 33 out of 56 (59%) States/Territories were represented by the Survey Responders
Forensic Evidence Collection: Policies & Systems

First Responders to Victim

N = 36

13 responders indicated that the identity of the first responder may vary within their state. Survey respondents were able to choose more than one response, hence % = more than 100.
9 responders indicated kit tracking mechanisms vary within their state.
7 responders indicated that responsibility for narrative collection varies within their state.
12 responders indicated the evidence storage location varies within their state.
11 responders indicated responsibility for transporting evidence varies within their state.
Only 5 Responders indicated their state or a local jurisdiction within their state was currently processing or considering processing “anonymous” cases through CODIS.
Forensic Evidence Collection: Policies & Systems

SAFE Exam Time Limitations

*N = 29*

21 responders indicated SAFE exam time limits vary. Other responders specified: decision of medical personnel; and no statute of limitations.
11 responders indicated storage limits for SAFE exam kits vary.

Forensic Evidence Collection: Policies & Systems

SAFE Exam Storage Limitations

N= 19

11 responders indicated storage limits for SAFE exam kits vary.
Forensic Evidence Collection Policies & Systems:
Who Communicates Options to Victim?

N = 36

Appendix 6 - VAWA Forensic Compliance Survey Results
Q: Does your State track/monitor the ‘anonymous’ cases and record what percent of victims decide to report to law enforcement and participate in the system?

21 States/Territories responded …. Of those 21, only 4 jurisdictions indicated that, yes, they do track ‘anonymous’ cases.
Forensic Evidence Collection: Policies & Systems

Tracking and Monitoring

Q: Does your State track/monitor ‘anonymous’ cases and record what percent of victims reported & are participating in the system, and successfully prosecute their case?

19 States/Territories responded…

Of those 19, only 1 Territory indicated that, yes, they are tracking ‘anonymous’ cases through prosecution.
Forensic Evidence Collection Policies & Systems:

SAFE Payment Procedures

N = 36

Exhibit 6 - VAWA Forensic Compliance Survey Results
Forensic Evidence Collection Policies & Systems: 

Evidence Collection Type

N= 39

Exhibit 6 - VAWA Forensic Compliance Survey Results
Forensic Evidence Collection Policies: & Systems

Enabling Legislation for Exam Procedures
(in place, or expected to be, in 2008)

N = 28

Exhibit 6 - VAWA Forensic Compliance Survey Results
Forensic Evidence Collection Policies: & Systems

Statewide Legislation or Protocols
(in place, or expected to be, in 2008)

$N = 24$

Exhibit 6 - VAWA Forensic Compliance Survey Results