



EXAMINATION OPTIONS AFTER SEXUAL ASSAULT: DO SURVIVORS HAVE TO REPORT?
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Some of this information is derived from the materials created from the webinar: Models of Compliance for Sexual Assault Medical Forensic Examinations by Joanne Archambault, Tori Camp and Kim Day

LEARNING OBJECTIVES

- Identify the key requirements from VAWA 2005 that apply to sexual assault examinations
- Explore strategies to implement examination options for victims
- Provide some practical implementation strategies for communities to ensure that responding providers are supporting victim options for exams.

VAWA –EXAM ACCESS & PAYMENT

VAWA 2005

- Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both."
- 42 USCA S. 3796gg-4 (d) (1)

VAWA 2013

- 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—
- (A) incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault; and
- (B) coordinates with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no cost to the victims.

section 2010 (42 U.S.C. 3796gg-4)



What's ~~NEW~~

What-Does-it-all-mean

SO WHAT DOES THIS MEAN??

The victim drives the process- IF THEY REQUEST AN EXAM, they should be provided an exam without having to 'cooperate with law enforcement'

DOES THIS CHANGE THE INFORMATION WE GIVE VICTIMS?

Thought bubbles contain the following questions:

- What if there is a serial rapist?
- How long does the victim have to report?
- How can a delayed report case be prosecuted?
- What about mandatory reporting?
- What happens with the kit??
- How is a delayed report investigated?
- What happens when the victim decides to report?
- What about other evidence from the scene?

REPORTING OPTIONS

- Anonymous reporting
- Confidential/"Jane Doe" reporting
- Medical reporting

ANONYMOUS REPORTING

- Information may be provided to police about the sexual assault WITHOUT giving identifying information about the victim
- Law enforcement will not conduct an investigation unless the victim later comes forward to report
- Provides information to law enforcement that might help link crimes or provide statistics for other uses

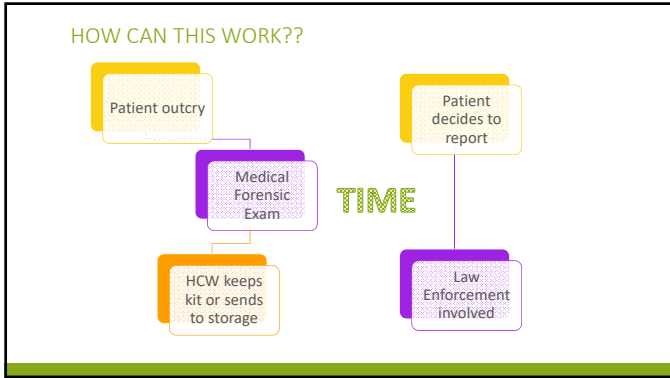
CONFIDENTIAL OR "JANE DOE" REPORTING

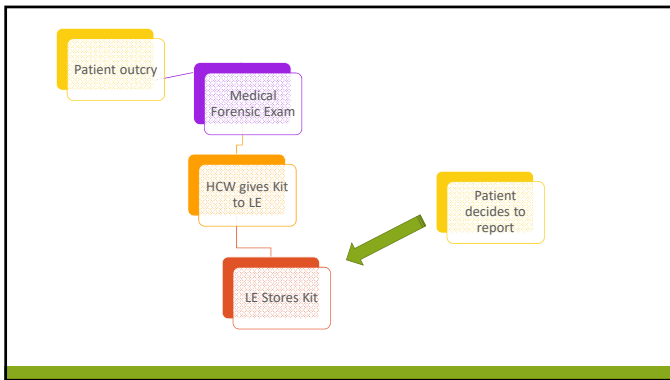
- Some jurisdictions have laws allowing victims to use a pseudonym (false name) on all legal and medical documents associated with the sexual assault
- Other jurisdictions allow victims to request that their name and other identifying information not be available in any public records
- Victim identity will be known to the hospital/forensic examiner and recorded on their documents
- The pseudonym is used in any public records

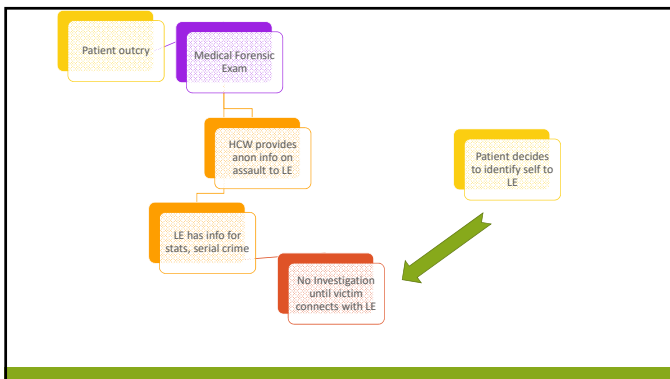
THIRD PARTY REPORT (WHERE MANDATORY REPORTING APPLIES)

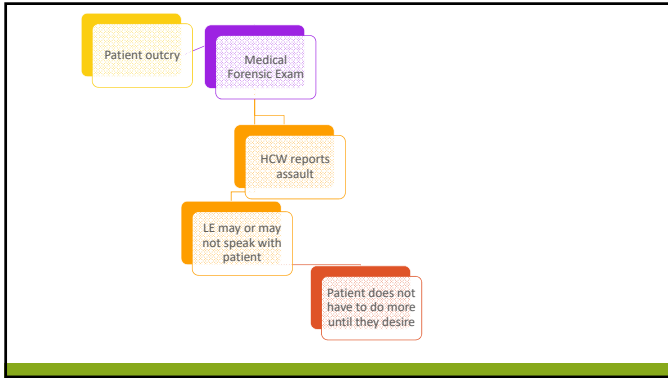
- Report made by someone other than the victim who is mandated by law to report
- May or may not identify victim by name- depending upon mandatory reporting law
- Could become crime or informational report depending upon information given- the procedures for reporting and the information required are outlined in the law.
- Some places have these types of systems in place that may go through another system (ie; rape crisis center, hotline or other)

HOW CAN THIS WORK?











- CHALLENGES FOR THIS PROCESS LAW/POLICIES**
- Jurisdictional differences
 - Legal issues
 - Worries about moving forward on cases where there has been delay in report
 - Lack of statewide or jurisdictional payment structures can cause conflict
 - Tribal protocol does not take victim options into account

COMMON CHALLENGES

- Perception that the process has been set up without involvement of all parties (ie: law enforcement is seen as a storage facility or transporter only)
- Fear that advocates and healthcare will **discourage** victims from reporting
- Fear that victims will not get the correct information on their options
- Fear that large numbers of victims will come forward with this option, overwhelming healthcare and advocacy
- Fear that there will be no way to prosecute cases where the victim has decided to wait to report
- Fear that victims will believe that when they decide to report that the case will automatically move forward
- The belief that if there is DNA evidence it will be submitted to CODIS

HOW CAN WE MAKE THIS WORK?

- Review your current procedures and make sure they allow the victim options
- Meet with your SART, CCRT, MDT to discuss potential ways to facilitate this process
- Seek resources to assist with this:
www.safeta.org and www.evawintl.org

WWW.EVAWINTL.ORG//FORENSIC-COMPLIANCE

<p>Forensic Compliance Background</p> <p>In this section, you will find background information on the forensic compliance provisions in VAWA 2005 and VAWA 2013. VAWA 2005 specifies that states and territories 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." All states and territories must now certify (as of January 8, 2009) that they are in compliance with these requirements in order to remain eligible for STOP Grant funds from the Office on Violence Against Women (OVW). VAWA 2013 clarified that victims cannot be required to pay any out-of-pocket costs to obtain a medical forensic exam. Communities have used March 2016 to be in compliance with the new provisions of VAWA 2013.</p> <p>READ MORE...</p>	<p>Forensic Compliance Resources</p> <p>In this section, you will find a wealth of resources for professionals to use in their own communities. These resources include background articles, a community self-assessment tool, and sample laws, policies, protocols, forms, and other documents that can be adopted for use. The goal is to highlight examples of communities striving to achieve a higher standard of the "spirit of the law" rather than simply meeting the "letter of the law" for VAWA forensic compliance.</p> <p>READ MORE...</p>	<p>Forensic Compliance FAQ's</p> <p>Here you will find detailed answers to many Frequently Asked Questions regarding VAWA forensic compliance. Questions address topics such as the purpose and philosophy of the legislation, and methods of payment for sexual assault medical forensic exams, among others.</p> <p>READ MORE...</p>
<p>SAFE Payment Map</p> <p>Many professionals have questions about the laws in their own state or territory, pertaining to forensic compliance and payment for sexual assault medical forensic exams. Answers can be found on the document entitled <i>Summary of Laws and Guidelines with Charts, Resources of Sexual Assault Medical Forensic Examinations</i>. This document was created by <i>Alfonse</i>. The Forensic Resource on Violence Against Women, in collaboration with <i>EWINTL</i>, has also developed the whole 228 page document, which includes the laws and questions for each U.S. state and territory, as well as a number of charts summarizing the provisions. For an overview...</p> <p>SAFE Payment Map Forensic Compliance</p>		

SAFETA - The information on this website is designed to help communities and organizations in the criminal justice system meet the requirements of SAFETA 2013, and (b) offer recommended practices for implementation. The goal is to highlight examples of communities striving to achieve a higher standard of the "spirit of the law," rather than simply meeting the "letter of the law" for VAWA forensic compliance. It is critically important that readers consult state laws and regulations, as well as local policies and protocols, because they may have additional requirements beyond those included in VAWA 2005 and VAWA 2013. For more information specific to your state or territory, contact the [SAC Unit Administrator](#) or [Coalition of Advocacy Organizations](#) providing services for sexual assault victims. A listing is available from the website for the [Office of Justice Programs](#), U.S. Department of Justice.

ICJF Manuals	Articles	FAQ Documents	Self-Assessment	SAFETA Payment Map	State Protocols	Model Policies	Sample Legislation
Sample Documents	Manifested Reporting	Reporting Options	Anonymous Reporting	Forensic Exams	Public Education	Data Collection	
Training Initiatives	Exam Payment	VAWA 2013	Evidence	Miscellaneous	Glossary	Start by Believing	SA Kit Backlog

Ashland Police Department: "You Have Options" Program

The Ashland Police Department in Oregon recently launched a program called "You Have Options." As of January 1, 2013, victims have the option of reporting their sexual assault in a variety of ways, including "Information Only," "Factual Investigation," and "Complete Investigation." Basic information on these options can be found on the [police department's webpage](#), which links to an [external website](#) offering more extensive details on the program's background and purpose, as well as related topics such as the medical forensic exam, the role of advocates, the process of an investigation, and reporting issues for male victims and victims under the age of 18. They have also developed a [short video](#) that poignantly depicts the need for such a program by highlighting the problems it was designed to address (i.e., skepticism of sexual assault reports and victim-blaming attitudes). The program offers an innovative and inspiring example for other law enforcement agencies to follow.

Webinar on Alternative Reporting Methods

There is an [EYAFI](#) webinar posted in our [archives](#), on the topic of Alternative Reporting Methods. The webinar originally aired on November 5, 2009. The [slides](#) are also available for review. Discussion addressed three primary models of compliance with VAWA 2005, described as "no law enforcement involvement," "law enforcement storage only," and "anonymous reporting to law enforcement." The rationale for each model was presented, along with general characteristics, logistics to address, and any associated concerns.

IACP Supplemental Reporting Form and Guidelines

When victims are given the option to report anonymously and/or through a third party, it will be necessary to develop a form for them to use. One recommendation is to adapt the Supplemental Reporting Form developed by the International Association of Chiefs of Police (IACP). The form is also posted on the [IACP website](#), along with corresponding guidelines for successfully investigating sexual assault cases. These tools are based upon national best practices regarding sexual assault investigations and were developed in collaboration with local, state, and federal law enforcement, prosecutors, advocates, medical, and forensic professionals. The goal is to support officers and departments in preparing sexual assault cases for successful prosecution through detailed case documentation and thorough investigations. (Note: These guidelines are not intended for use when the victim is a minor.)

Reporting Methods for Sexual Assault Cases

The [OJJT training module](#) provides guidance for officers and investigators on making the critical determination whether a sexual assault will be recorded with an official crime report or an informational report -- and explains the implications for subsequent criminal justice processing.

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