



United States Department of Justice

Office on Violence Against Women

Working Together to End the Violence

Frequently Asked Questions: Anonymous Reporting and Forensic Examinations

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. Victims are given a code 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 are providing this voluntarily for victims who are not ready to report to law enforcement at the time of the examination.

Q: What is the new federal law regarding forensic examination?

A: 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 free of charge or with full reimbursement, even if the victim chooses not to report the crime to the police or otherwise cooperate with the criminal justice system or law enforcement authorities. Prior to VAWA 2005, states were required to ensure access to such exams free of charge or with full reimbursement but could condition the exams on cooperation with law enforcement.

Q: Are states, under VAWA 2005, required to institute “Jane Doe Rape Kits” or “anonymous reporting”?

A: No, states are not required to institute anonymous reporting. Some states are instituting it voluntarily. Under VAWA 2005, states are only required to ensure that a victim receives access to a forensic examination free of charge regardless of whether the victim chooses to report a sexual assault (for any reason) to law enforcement or cooperate with the criminal justice system.

Q: Who has to comply with the VAWA 2005 requirement regarding forensic examination?

A: All states must comply with the VAWA 2005 requirement regarding forensic examination by the statutory deadline of January 5, 2009, in order to be eligible to receive STOP Violence Against Women Formula Grant Program (STOP Program) funds.

Q: VAWA requires a sexual assault victim to have access to an exam free of charge. Does this mean the federal law requires states to pay for the forensic exam?

A: Under 42 U.S.C. § 3796gg-4, a State is not entitled to funds under the STOP Program unless the State or another governmental entity "incurs the full out-of-pocket cost of forensic medical exams . . . for victims of sexual assault." This means that, if no other governmental entity or insurance carrier pays for the exam, states are required to pay for forensic exams if they wish to receive STOP Program funds. The goal of this provision is to ensure that the victim is not required to pay for the exam.

Q: What is the effect of the VAWA 2005 forensic examination requirement?

A: The effect of the VAWA 2005 forensic examination requirement is to allow victims time to decide whether to pursue their case. A sexual assault is a traumatic event. Some victims are unable to decide whether they want to cooperate with law enforcement in the immediate aftermath of a sexual assault. Because forensic evidence can be lost as time progresses, such victims should be encouraged to have the evidence collected as soon as possible without deciding to initiate a report. This provision ensures victims receive timely medical treatment.

Q: Does the VAWA 2005 forensic examination requirement apply to the entire state or only to jurisdictions within the state that have received OVW STOP Program subgrants?

A: The VAWA 2005 forensic examination requirement applies to the entire state.

Q: How is the VAWA 2005 forensic examination requirement different from a "Jane Doe Rape Kit?"

A: The VAWA 2005 forensic examination requirement does not mandate anonymity.

Q: Some states have mandatory medical reporting laws. How does the VAWA 2005 forensic examination requirement affect these states' laws? Would states following these reporting laws be in compliance with the VAWA 2005 forensic examination requirement?

A: These states would be in compliance with the VAWA 2005 forensic examination requirement as long as the victim retains the ability to choose not to cooperate with law enforcement or the criminal justice system and receives a forensic examination free of charge or with full reimbursement.

Q: How long are states required to keep forensic examination collection kits?

A: VAWA 2005 does not address this issue. The storage and retention of forensic evidence collection kits varies from state to state.

Q: How does the VAWA 2005 forensic examination requirement affect medical facilities' policies and procedures?

A: Each state that receives STOP Program funds 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 that requests one regardless of whether the patient chooses to report a sexual assault to law enforcement.

Q: What will be the effect of the VAWA 2005 forensic examination requirement on law enforcement?

A: Many victims refuse to undergo examinations because they are not ready to report the sexual assault to the police. Advocates for sexual assault victims maintain that the VAWA 2005 forensic examination requirement will encourage more victims to undergo examinations directly following the crime, thereby preserving forensic evidence for future prosecutions when victims are ready to cooperate with law enforcement. Jurisdictions that have implemented anonymous reporting, including the U.S. Military, have found this to be true.

Q: Does the VAWA 2005 requirement affect the military?

A: The Department of Defense has separate and distinct reporting policies and procedures from the VAWA 2005 forensic examination requirement. For more information about these policies and procedures, please visit <http://www.sapr.mil/HomePage.aspx?Topic=Sexual%20Assault&PageName=Reporting.htm>.

Q: How do states comply with the VAWA 2005 forensic examination requirement?

A: OVW offers technical assistance to assist states in complying with the VAWA 2005 forensic examination requirement. OVW funds the Maryland Coalition Against Sexual Assault (MCASA), who will provide ongoing training and technical assistance regarding the forensic examination requirement. Information on MCASA's VAWA Forensic Compliance Project is available on MCASA's website at <http://www.mcasa.org/C/4/C4.htm>. States requiring technical assistance can also contact MCASA by telephone at (410) 974-4507.

For further information on forensic examination requirements and other STOP Program requirements, please visit http://www.ovw.usdoj.gov/docs/FAQ_FINAL_nov_21_07.pdf. Specific information regarding forensic examination requirements begins on page 22.

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