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This training bulletin is the first in a series designed to explore the key issues related to VAWA forensic compliance and alternative reporting methods for sexual assault victims.

In this first installment, we begin by introducing the key terms, and concepts associated with alternative reporting methods and VAWA forensic compliance. In subsequent bulletins, we will highlight two communities that have developed excellent alternative reporting methods options for victims of sexual assault: Cambria County, Pennsylvania and Ashland, Oregon. We will also review critical components that must be considered when implementing alternative reporting options for victims, such as developing procedures for victims to convert to a standard reporting process, determining how long evidence will be stored in connection with alternative reporting methods, and creating a multidisciplinary protocol for all of the professionals who will be involved. Finally, we will conclude this series of training bulletins with recommendations for best practices.

Concepts and Terms Evolving Rapidly

It is important to note that these concepts and terminology have evolved at an astonishing pace. For example, many law enforcement agencies have historically offered victims the option of providing information about their sexual assault without initiating an investigation. Sometimes, this option was given a name, such as *blind reporting* or *informational reporting*. More commonly, it was simply a practice utilized without any formal name or protocol. Yet with the 2005 re-authorization of the Violence Against Women Act (VAWA) all of this changed.

Several provisions in VAWA 2005 sparked radical changes in the criminal justice and community response to sexual assault, particularly with respect to medical forensic examinations and law enforcement participation. This fueled an unprecedented interest in the concept of alternative reporting options, with communities experimenting and innovating in all kinds of promising ways. While exciting, this rapid pace of progress has meant that terms are often used inconsistently, which creates some measure of confusion and misunderstanding. Many of us in the field have adopted certain terms for use, only to realize their limitations and modify or even abandon them later. For us, one of those terms is *anonymous reporting*.

In our early writing on the topic, we advocated for agencies to implement a protocol for anonymous reporting (which we will define and describe in a moment). However, as innovation and reform has continued, it has become clear to us that the emphasis on anonymity has masked the more important questions of *what will happen to a report once it is made*. We have therefore shifted toward a more general language of 'alternative reporting options,' which may include anonymity for victims, non-investigative responses from law enforcement, and/or other components designed to increase victims' access and participation.



Anonymous Reporting to Law Enforcement

The term anonymous reporting is often used to describe a method for providing information about sexual assault to law enforcement without recording the victim's name or other identifying information. Victims can therefore talk with an officer, and get their questions answered, without formally identifying themselves or having their name recorded in the report. They do not have to immediately commit to participating in the process of a full investigation and potential prosecution. Information about the sexual assault can then be recorded by law enforcement as an informational report and stored in case the victim later decides to come forward and participate.

- As an example of anonymous reporting, the *You Have Options Program* in Ashland, Oregon offers victims a chance to personally meet with an officer from the Ashland Police Department, and provide information about their sexual assault without offering (or formally recording) their name.
- We will provide more information about this program in a subsequent training bulletin. However, it is worth noting in this introductory section that sexual assault victims in Ashland, Oregon can also provide information about their sexual assault using an online form posted on the Ashland Police Department website.

Protecting Confidentiality

The *You Have Options Program* also includes several features that are specifically designed to protect a victim's confidentiality. Establishing and upholding a policy of confidentiality "is the basis of trust" for sexual assault victims (Garcia & Henderson, 2010, p. 3). For example, when victims in Ashland's *You Have Options Program* choose a reporting method that does not involve personal contact with law enforcement, investigators are specifically advised to respect this decision and not initiate in-person contact. Investigators are instructed to take only those steps that will maintain the victim's requested level of confidentiality.

Particular concern is warranted in situations that would trigger a mandated report. One of the required elements for the *You Have Options Program* is thus stated as follows:

A victim's right to keep their assault confidential shall be respected. If legally permissible, no person (outside of a law enforcement agency) shall be notified that the victim has reported without the victim's consent. This includes the interviewing of identified witnesses and perpetrators.

There are some circumstances, however, where information might be shared with others. Victims need to understand, for example, what information must be shared by health care providers in order to meet their legal obligation for reporting to law enforcement – and by certain university personnel in order to meet their Title IX obligations under the federal Clery Act. It is important to clarify whether there might be other circumstances where some or all of the information provided by a sexual assault victim might be shared with others. Garcia and Henderson (2010) offer the following recommendations:

Determine the circumstances or processes in which information might be shared across types of investigations within the agency. For example, consider a situation in which a rape victim discloses significant information about a drug dealer. When does the victim of sexual violence hold all authority over the information shared? When might information related to the drug supply, storage, or sales be shared, anonymously or not, with another investigator?

Set forth the circumstances or processes in which information might be shared with other helping professionals outside the agency, such as the rape crisis center, sexual assault nurse examiner, or sexual assault response team. The victim should be informed of and preferably have the opportunity to clarify how much information must or could be shared with which other people (p. 3).

Such issues will need to be addressed in agency protocols, so they are followed consistently and victims can be provided accurate information regarding any limits on their confidentiality.

Alternative Terminology

A variety of terms have been used to describe anonymous reporting procedures, such as *confidential reporting*, *restricted reporting*, *Jane Doe reporting*, and others. However, these terms are not always used to describe a reporting procedure that is truly *anonymous*. Sometimes they are used to refer to a process that would more accurately be described as *non-investigative reporting*. (We turn to the question of non-investigative reporting next.)

Regardless of the term used, it is clear that many victims want such an anonymous reporting option. In one study conducted in Colorado, over half the responding professionals surveyed had at least one sexual assault victim they worked with who wanted to remain anonymous when reporting to law enforcement (Moldovon & Livermore, 2013).

Not Truly ‘Anonymous’

As noted above, just because an anonymous reporting procedure is available, this does not necessarily mean that the victim is truly anonymous, in the sense that the officer does not know who the victim is. If a medical forensic exam has been conducted, for example, the victim’s identity will certainly be known to the health care provider. Officers themselves may even know who the victim is, particularly in communities such as rural or isolated towns and villages, in addition to campuses, tribes, or military installations. The victim’s name may even be used for other aspects of the criminal justice response system, including documenting and impounding evidence, paying for the medical forensic exam or applying for Crime Victim Compensation.

Even for officers who do not personally know the victim, they would typically be able to find out quite easily. The term ‘anonymous’ is thus used – not necessarily to indicate that the officer does not know who the victim is – but to reflect the understanding that the victim’s identity will not be formally recorded in the report. The report may include some other anonymous identifier, such as a pseudonym (e.g., Jane Doe) or a tracking number of some kind.

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Alternatively, a specific phrase could be used in place of an anonymous identifier (e.g., “name withheld”). Or, the records containing the victim’s name could be sealed inside the evidentiary kit, if one was collected during a medical forensic exam.

Regardless of the tracking mechanism used, however, there is typically nothing stopping law enforcement from opening the evidentiary kit, or taking other steps to identify the victim. The question is therefore not whether investigators *can identify the victim* of a sexual assault who wishes to remain anonymous – but *will they?* This is an issue that needs to be addressed among the multidisciplinary partners involved in responding to sexual assault – and documented in writing in a community-wide protocol that is agreed to and signed by appropriate law enforcement leadership such as any Police Chiefs and the County Sheriff.

Up Next

Now that we have introduced some essential terms associated with alternative reporting, we will focus in upcoming training bulletins on key concepts such as non-investigative reporting to law enforcement and third party reporting.

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