



End Violence Against Women International (EVAWI)

# VAWA 2013 Compliance Deadline

Kimberly A. Lonsway, PhD  
Sergeant Joanne Archambault (Ret.)

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## Authors

Dr. Kimberly A. Lonsway has served as the Director of Research for EVAWI since 2004. Her research focuses on sexual violence and the criminal justice and community response system. She has written over 60 published articles, book chapters, technical reports, government reports, and commissioned documents – in addition to numerous training modules, bulletins, and other resources. She has volunteered for over fifteen years as a victim advocate and in 2012, she was awarded the first – ever Volunteer of the Decade Award from the Sexual Assault Recovery and Prevention (SARP) Center in San Luis Obispo, CA. She earned her PhD in the Department of Psychology at the University of Illinois, Urbana – Champaign.



Sgt. Joanne Archambault (Retired, San Diego Police Department) is the Chief Executive Officer for EVAWI. In 2003 prior to founding EVAWI, Sgt. Archambault worked for the San Diego Police Department for almost 23 years, in a wide variety of assignments. During the last 10 years of her service, she supervised the Sex Crimes Unit, which had 13 detectives and was responsible for investigating approximately 1,000 felony sexual assaults each year. Sgt. Archambault has provided training for tens of thousands of practitioners, policymakers and others – both across the country and around the world. She has been instrumental in creating system – level change through individual contacts, as well as policy initiatives and recommendations for best practice.



The 2013 reauthorization of the Violence Against Women Act (VAWA) included many new provisions, but two focused specifically on the topic of forensic compliance. One clarified that victims cannot be required to pay any out-of-pocket costs to obtain a medical forensic exam. The second requires public outreach to ensure that community members know sexual assault victims can obtain a medical forensic exam free of charge and regardless of whether or not they participate in the criminal justice process.

The deadline for compliance with these two new provisions is **March 7th, 2016**.

In this bulletin, we offer more detailed information as well as resources you can use to ensure that your community is in compliance with these two new VAWA provisions.

### **No Out of Pocket Costs**

Under VAWA 2005, jurisdictions could remain in compliance with VAWA provisions even if victims were being billed for the cost of their medical forensic examination – as long as they were fully reimbursed for that expense. However, this option was eliminated in VAWA 2013. States, territories, and tribal governments must now certify that medical forensic exams are available to victims completely free of charge – and this means no out-of-pocket costs for victims.

It is worth clarifying that this does not extend to all aspects of medical testing and treatment. In the text of the federal legislation, VAWA specifies which components of the examination must be offered to victims free of charge.

These and other issues are addressed in our OnLine Training Institute (OLTI) module on forensic compliance, entitled, [The Earthquake in Sexual Assault Response: Implementing VAWA Forensic Compliance](#). The module also includes a number of resources and tools that can be adapted for use in your community.

### **Billing Private Insurance?**

As a related issue, we are often asked whether this provision also prohibits the practice of billing the victim's private insurance. In theory, the answer is no – this is not expressly prohibited by VAWA 2013, so programs can continue to bill a victim's private insurance for the cost of a medical forensic exam. However, this will be administratively complicated since victims cannot be charged for any out-of-pocket costs. This includes co-pays, deductibles, or other costs that might not be covered by insurance.

Insurance billing can also present complications for victims, including a loss of confidentiality. This is why OVW specifically discourages it in rather strong language:

*We urge States to keep in mind that, in some cases, insurance billing can present a hardship for victims. For example, a victim of spousal*

*rape may not want her husband to find out that she got a forensic exam. If the victim is forced to submit the claim to her insurance company and she is on her husband's insurance, he may receive a statement from the insurance indicating that she got the exam. For this reason, the Office on Violence Against Women strongly encourages States to not require victims to file a claim with their insurers (OVW, 2007, pp. 24–25).*

Even in the absence of abuse, partners or parents who receive an insurance statement will likely have questions about the purpose of any medical treatment, and this may eliminate the victim's choice regarding whether or not to disclose the sexual assault.

Insurance billing is thus one example of a practice that may meet the letter of the law for VAWA forensic compliance, but clearly fails to achieve the spirit of the law – which is to provide victims with prompt and unobstructed access to a medical forensic exam.

## Public Outreach

The second VAWA provision states that governmental entities (such as a US state, territory, or tribal government) will only remain eligible for federal STOP grant funding if they coordinate with “regional health care providers” to notify sexual assault victims that they can have access to a medical forensic examinations free of charge. This provision has the potential to create a sea change in public awareness with respect to forensic compliance.

Many communities have developed innovative ways to reach the public with information about their options – particularly the fact that sexual assault victims can obtain a medical forensic exam free of charge and without having to make a decision about reporting to law enforcement. Some have approached this issue through public service announcements, media campaigns, or agency webpages. All of these strategies can be effective in informing the public, thereby increasing access for victims. Examples are provided in the forensic compliance resources on our website, under [Public Education](#).

## Start by Believing

Given that the whole point of forensic compliance is to increase access for victims of sexual assault – both to forensic health care as well as the criminal justice process – creating a VAWA-compliant system is only half the battle. The other half is ensuring that community members are aware of their options, to increase the likelihood that they will engage the system when they or someone they love has been sexually assaulted.

This objective also aligns perfectly with the message of the Start by Believing Campaign. As you begin crafting your public outreach efforts, we encourage you to add language

emphasizing that your community stands ready to believe and support victims of sexual assault. For example, printed materials could include a statement such as this:

*The entire community of Colville Starts by Believing. We're here to support you and to let you know that you can receive a compassionate and professional health care exam at no cost, regardless of whether or not you decide to report to law enforcement.*

## Resources for Compliance

VAWA 2013 was enacted on March 7th, 2013, and the deadline for compliance was stated as three years from that date. Therefore, communities have until March 7<sup>th</sup>, 2016.

To support these efforts, EVAWI offers an entire section of our website dedicated to the topic of forensic compliance. This includes extensive [background information](#), [resources](#), and answers to [frequently asked questions](#). For example, you will find sample policies, protocols, forms, and other documents. There are also [training bulletins](#) and [webinars](#) available in our online archive on topics related to forensic compliance.

Perhaps most important, we offer technical assistance on this topic through individualized consultation. To submit a request, please use the [online portal](#).

We hope you find these tools helpful as you strive to implement VAWA forensic compliance and achieve the goal of increased access for survivors of sexual violence.

