

STOP Formula Grant Program and VAWA 2005 Changes

*Jennifer Kaplan
Attorney Advisor
Office on Violence Against Women*

November 27, 2007

New Purpose Areas

- VAWA 2005 created three new statutory purpose areas for the STOP program:

(1) “Maintaining core victim services and criminal justice initiatives while supporting complementary new initiatives and emergency services for victims and their families.”

Note that purpose area includes services for family members of victims (such as children who witness domestic violence or non-perpetrating spouses/partners of sexual assault victims)

New Purpose Areas - continued

- (2) Special victim assistants in law enforcement agencies to serve as liaisons between victims and law enforcement to improve the enforcement of protection orders
- (3) Improving responses to police-perpetrated domestic violence

Note that VAWA 2005 requires special TA for subgrantees under this purpose area and imposes special reporting requirements. OVW will provide the TA (although we'll need some information from States to do so).

Funding

- Increases annual funding authorization from \$185 million to \$225 million.

However:

- 10 percent is for a new tribal program (instead of the 5% that previously went to STOP VAIW)
- The statute requires 3-8% for TA

Implementation Plans

- Plans need to include a description of how State will address the needs of underserved populations.
- Plans need to describe how State will 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.

Allocation Formula

- The State allocation formula is now 25% **for** law enforcement, 25% **for** prosecutors, 30% **for** victim services, and 5% **for** courts.
- Allocation is assigned by purpose for which funds will be used **not** type of agency receiving subgrant.
- Change took effect with FY 2007 funding.

Allocation Formula - continued

- Within the 30% allocation for victim services, "10% shall be distributed to culturally specific community-based organizations."
- Change took effect with FY 2007 funding

Allocation Formula – continued

- An organization is eligible for the culturally specific set-aside if the organization:
 - Has a focus on any underserved population;
 - Is providing services tailored to the unique needs of population; and
 - At a minimum, has some expertise or demonstrated capacity to work effectively on domestic violence, dating violence, sexual assault or stalking or acquires expertise through collaboration with another entity.
- Does a shelter or a rape crisis center qualify for the 10%?

New Application Requirement

- States must submit documentation that prosecution, law enforcement, and courts have consulted with victim services during the course of developing their grant applications to ensure that the proposed activities are designed to promote safety, confidentiality, and economic independence of victims.

New Application Requirement - continued

- How are States supposed to meet this consultation requirement?
- Last year, States addressed in various ways (letter regarding subgrantee pool, RFPs, consultation forms)
- Some suggestions for going forward:
 - Include requirement in State RFP
 - Include special condition on subgrant awards
 - All subgrant applicants sign consultation form

Rape Exam Certification Changes

- VAWA 2005 made two changes to the rape exam certification:
 - First, States may now use STOP funds to pay for forensic exams if:
 - The exam is performed by a trained examiner for victims of sexual assault; and
 - The State does not require victims of sexual assault to seek reimbursement for the exam from their insurance carriers.

Rape Exam Certification Changes - continued

- Second, States cannot require sexual assault victims to participate in the criminal justice system or cooperate with law enforcement in order to receive a forensic exam, reimbursement for the cost of the exam, or both.
- States have until January 5, 2009 to come into compliance.

Rape Exam Certification Changes - continued

- What if local jurisdictions require victim cooperation as condition of receipt of or payment for forensic exam?
- Maryland and Iowa Coalitions Against Sexual Assault presentation regarding effective implementation

New Judicial Notification Certification

- State must certify that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements of federal, state, or local gun control laws
- States have 2 years (January 5, 2008) or until the end of the next session of the State legislature
- ? What does “notification” mean?
- ? If we send a notice to all PPO respondents does that meet the requirement?
- NCJFCJ and APRI presentation at conference

New Polygraph Testing Prohibition Certification

- States must certify that, not later than three years after the date of enactment of this section (i.e., **January 5, 2009**), their laws, policies, or practices will ensure that no law enforcement officer, prosecutor, or other government official shall ask or require an adult, youth, or child victim of an alleged sex offense to submit to a polygraph examination as a condition for proceeding with investigation of the offense
- The refusal of a victim to submit to an exam shall not prevent the investigation, charging, or prosecution of the offense
- ? Does this require a change in statute or can it be done by policy?

New Certifications - General Questions

- ? Will extensions be given if States cannot make the listed deadlines?
- ? Who determines compliance with the new certifications?
- ? What will States need to submit?
- ? Can State administrators get guidance and assistance from OVW in getting their States into compliance?
- ? If subgrantees are tribes, do they need to certify?

New HIV Testing Certification?

- This one is for the **Arrest Program**, not STOP.
- Specifically, Arrest grantees (States or local governments only) will lose 5% of funds if they do not have a law or regulation that requires the State or local government, at the request of a victim, to administer an HIV test to the defendant in certain sex offenses within 48 hours of information or indictment, notification to the victim and defendant of the results, and follow-up tests.
- Arrest grantees have until January 5, 2008 or their next legislative session to comply.

Match and Match Waiver

- Match cannot be **required** for subgrants **for** victim services providers or tribes
- States can apply for waiver of match if they adequately demonstrate financial need
 - Note change on subgrantee waiver requests
- If a State does not receive a waiver, it will still have to provide a full 25% match (Territories are exempt)
- See new Consolidated FAQs for more details on the waiver process

Confidentiality

- Grantees and subgrantees may not disclose personally identifying information about victims served with OVW funds unless:
 - Written release
 - Court order
 - Statutory requirement

Confidentiality – continued

What does “personally identifying information” mean?

Individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

- (1) a first and last name;
- (2) a home or other physical address;
- (3) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);
- (4) a social security number; and
- (5) *any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (1) through (5), would serve to identify any individual.*

Confidentiality – continued

- This includes disclosures from subgrantees to the State, including through the use of databases
- Grantees and subgrantees may share data in the aggregate
- Releases need to be **written, informed, and reasonably time-limited.**
- Grantees may not require releases as a condition of service

Confidentiality - Questions

- Can victim services organizations provide information about deceased victims to death review teams?
 - Yes. The information provided is not going to locate the victim or place the victim in danger.

Confidentiality - Questions

- What can State Administrators ask for on site visits without violating the provision?
 - Some examples include: asking the subgrantee to keep a log sheet with a tally of services provided each day, interviewing staff, asking for a sample of files with the information redacted (for example, pick a random date and ask for clients served on that date), other ideas?

Confidentiality - Questions

- Can law enforcement share information about calls with victim services providers?
 - Yes. The provision specifically refers to “services requested, utilized, or denied.” Law enforcement calls are not a victim “service” so the information can be shared.

Confidentiality - Questions

- Does the confidentiality provision prohibit staff who are not statutorily mandated child abuse reporters from reporting child abuse?
 - Yes, unless there is a court order requiring such reporting or the victim has signed a release.

Confidentiality - Questions

- Does this provision limit the ability of recipients to respond to emergency situations at their programs (e.g., a medical emergency)?
 - No. The agency should be able to give the emergency operator enough information to respond (such as the location of the program) without giving any identifying information about the victim.

Confidentiality - Questions

- What if our State wants to set up an electronic case management database to generate an unduplicated count of victims served?
 - Such a count is not required for VOCA, VAWA, or FVPSA.
 - Need to make sure that in the context of your area and programs that identifying information will not be disclosed (e.g., rural areas)
 - Does anyone other than the local program have access to individual identifying information?