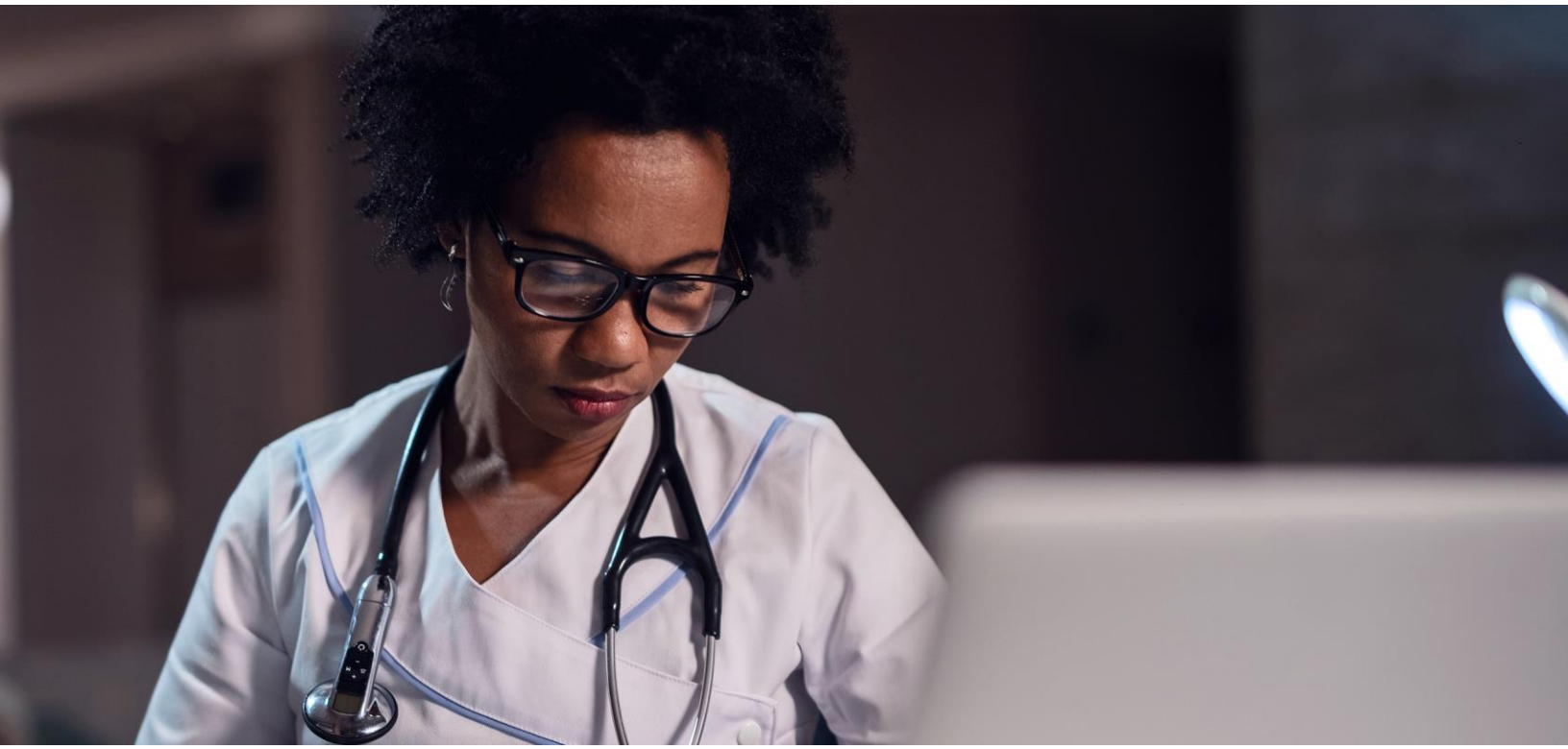


RESEARCH REPORT

Paying for Sexual Assault Medical Forensic Exams

How States and Jurisdictions Pay for Exams So Survivors Do Not Have To

Janine Zweig
URBAN INSTITUTE

Nicole Stahlmann
INTERNATIONAL ASSOCIATION OF FORENSIC NURSES

Lauren Farrell
URBAN INSTITUTE

Melanie Langness
URBAN INSTITUTE

July 2021

URBAN INSTITUTE

INTERNATIONAL ASSOCIATION OF Forensic Nurses

ABOUT THE URBAN INSTITUTE

The nonprofit Urban Institute is a leading research organization dedicated to developing evidence-based insights that improve people's lives and strengthen communities. For 50 years, Urban has been the trusted source for rigorous analysis of complex social and economic issues; strategic advice to policymakers, philanthropists, and practitioners; and new, promising ideas that expand opportunities for all. Our work inspires effective decisions that advance fairness and enhance the well-being of people and places.

Contents

Acknowledgments

This project was supported by Grant No. 2018-SI-AX-0002 awarded by the Office on Violence Against Women, US Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the US Department of Justice, or those of the Urban Institute, its trustees, or its funders. We are grateful to the Office on Violence Against Women and to all our funders, who make it possible for Urban to advance its mission.

Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute's funding principles is available at urban.org/fundingprinciples.

We would like to thank the following former and current project members for their assistance with this study: Sara Bastomski, Kim Day, Storm Ervin, Erica Henderson, Jahnavi Jagannath, Colette Marcellin, Mari McGilton, Susan Nembhard, Karmen Perry, Emily Tiry, Krista White, and Rebecca Wong. We would also like to thank the members of our advisory board—Bethany Backes, Rebecca Campbell, Ilse Knecht, Sally Laskey, Jennifer Long, Jennifer Pierce-Weeks, Jordan Satinsky, and Kelly Walsh—for their invaluable contributions to this study, without which it would not have been possible. Lastly, we would like to thank all those across the country that took the time to complete our surveys and to speak with us to share about their experiences related to this study.

Executive Summary

In 2018, the Urban Institute and the International Association of Forensic Nurses were funded by the Office on Violence Against Women to conduct an evaluation of the National Protocol for Sexual Assault Medical Forensic Examinations, or the SAFE Protocol, with the aim of understanding the extent to which its provisions have been implemented across the country. Findings from the current study, along with information from SAFEta.org, reexamined issues around sexual assault medical forensic exam (SAMFE) payment practices to provide updates to what we shared in 2014 (Zweig et al. 2014). Four major conclusions can be drawn, each with corresponding recommendations to improve policy and practice.

Report Highlights and Recommendations

The first conclusion represents changes from 2014 to 2019; the second, third, and fourth conclusions echo conclusions drawn in 2014 and lead to similarly situated recommendations.

First, according to state and local stakeholders working directly in sexual assault response—sexual assault nurse examiners (SANEs), victim advocates, sexual assault coalitions, and Violence Against Women Act (VAWA) administrators—most sexual assault victims seeking SAMFEs receive the exams free of charge and without being required to report assaults to the police. This appears to have improved; more victim advocates, VAWA administrators, and sexual assault coalitions reported in 2019 that most victims receive free exams and are not required to report to police than did in 2014. Recommendations related to this finding are as follows:

- *Recommendation for practice:* continue to provide training and technical assistance to state- and local-level stakeholders (those directly involved in connecting or referring victims to exam providers, in providing SAMFEs to patients, in billing patients for services rendered, and in providing support and advocacy to survivors) so all understand that SAMFEs should be free of charge to victims and that victims should not be required to report an assault to police to access such free exams.
- *Recommendation for practice:* continue to implement practices that prevent erroneously billing patients for SAMFE services. Some ways to prevent this include not requiring SANEs to document services in hospital-wide records systems, creating automatic billing processes for

SAMFEs to state-designated public payers, and immediately correcting errors that do happen when they are brought to the attention of hospital administrators.

- *Recommendation for practice:* if not already available, create a dashboard or another type of data tool that tracks SAMFE billing but without any identifying patient information to ensure that the designated payer is billed for the exam and that patients are not erroneously billed. Without identifying information, these data could be tracked across individual locations and at the state level.
- *Recommendation for research and practice:* researchers should consider working with local practitioners (SANEs and advocates) to regularly assess whether survivors experience issues with being erroneously billed for exams or billed for portions of the services that their state does not cover (but that other states do). Although we gathered perspectives from those in the sexual assault response system most informed on these issues, it would be good to also understand these issues based on feedback from survivors themselves.

Second, Victims of Crime Act (VOCA) funds continue to be the most relied-upon public payer to cover the cost of SAMFEs. Eighty percent of states use these funds to cover the costs of all or some SAMFEs in their state. Our recommendation related to this finding is as follows:

- *Recommendation for policy:* states that rely on VOCA funds to cover SAMFE costs might examine whether a dedicated state budget funding stream might be identified to replace the use of these funds, such as through designated line items in state budgets. Or, a specific federal funding stream could also serve this purpose and potentially lead to uniformity across states and greater sustainability of funding. Recently, states have seen reductions in their VOCA funding owing to decreases in the Crime Victim Fund (which is funded with fines and fees related to criminal convictions and not taxes). If sources of funding other than VOCA can cover SAMFEs, states will less often find themselves having to make difficult decisions about how to use a limited resource, and VOCA funds can be concentrated on providing direct benefits to survivors related to other costs they incur because of their victimization (e.g., mental health services, lost wages, etc.) and services.

Third, many states have expanded the services provided as part of free SAMFEs beyond those in the federal definition. But even some of the states that have expanded their services still leave out essential items that would be helpful to the long-term well-being of survivors (e.g., human immunodeficiency virus prophylaxis, follow-up medical care). This was also true in 2014, when we first documented states expanding the federal SAMFE definition and wide variation in what is covered state-

to-state as part of free SAMFEs (Zweig et al. 2014). What is provided free of charge still varies depending on where victims live. Our recommendation is as follows:

- *Recommendation for policy:* VAWA reauthorization should include language that widens what federally mandated treatment and services are included as part of SAMFEs. Elements of the SAFE Protocol that contribute to victim-centered and trauma-informed care (such as those around pregnancy testing and testing and treatment for sexually transmitted infections [STIs]) that the federal government merely promotes as best practice should be codified in legislation. Without this, there will remain problematic variation across the country in the services and treatment survivors receive as part of the free exam dependent on where they live. A question we posed in 2014 remains relevant: Should the amount of services provided to a rape survivor free of charge depend on the misfortune of which state they happen to be raped in?[1]

Fourth, payment levels from public payers to cover SAMFEs often fall short of the full cost of the exams. Many states have reimbursement caps in place regardless of any variation in the services rendered, and these caps are viewed by stakeholders as woefully inadequate. Our recommendation is as follows:

- *Recommendation for practice:* state-level stakeholders in charge of setting reimbursement caps for SAMFE costs should conduct regular assessments of whether these caps are adequate and adjust funding levels commensurate with changing costs of the services and supplies. The costs of SAMFEs may vary across hospitals and across a state for legitimate reasons, resulting in some hospitals receiving reimbursement for the full cost of their services while others provide SAMFEs at a loss.

Paying for Sexual Assault Medical Forensic Exams

Released in 2013, the second edition of the National Protocol for Sexual Assault Medical Forensic Examinations, or SAFE Protocol, is a voluntary guide developed by the Department of Justice that local jurisdictions and states can use to inform their responses to sexual assault. It institutionalizes best practices around survivor care and evidence collection, particularly for sexual assault nurse examiners (SANEs) completing medical forensic examinations. In 2018, the Urban Institute and the International Association of Forensic Nurses were funded by the Office on Violence Against Women to evaluate the SAFE Protocol with the aim of understanding the extent to which its provisions have been implemented across the United States. Our mixed-methods study incorporated the perspectives of multiple stakeholders in the sexual assault response system at the state and local levels. One provision of the SAFE Protocol is guidance around payment for sexual assault medical forensic exams (SAMFEs). Using information from our evaluation, this report identifies the designated public payers for SAMFEs in states and jurisdictions and examines which parts of the exam process are paid for by these designated payers and stakeholders' perceptions of the extent to which survivors receive exams free of charge and without the condition of reporting to law enforcement.[1]

The 2005 reauthorization of the Violence Against Women Act (VAWA) redressed an issue that arose from the original 1994 VAWA. Although free SAMFEs were prescribed in the original legislation, it permitted states to condition free exams on a survivor's report to and participation with law enforcement. Survivors across the country were being treated differently, not all were being provided exams free of charge, and many were being required to report assaults to police before gaining access to exams (Zweig et al. 2014). VAWA reauthorizations in 2005 and 2013 provided states clearer guidance to ensure survivors receive free exams (including paying no fees for insurance copays or deductibles) regardless of whether they report to law enforcement or participate with the criminal legal system. Reauthorizations further specified that in order for states to use STOP (Services, Training, Officers, Prosecutors) Formula Grant Program funding to pay for SAMFEs, they must ensure exams are conducted by specially trained examiners (such as SANEs), and not require victims to seek reimbursement for the exams from their insurance providers.[2] In 2014, we published a report that

[1] The term survivor is used to describe a person who has experienced victimization. Throughout this report, we use the terms survivor, patient, and victim interchangeably in places where it is relevant to do so to describe people who have experienced sexual violence.

examined the implementation of SAMFE payment practices across the country and found that Victims of Crime Act (VOCA) funds were the go-to public resource for covering the costs of SAMFEs: two-thirds of states used VOCA funds to pay for at least some SAMFEs conducted in their states and one-third used *only* these funds to cover exams.

The SAMFE has two major functions: medical treatment and forensic-evidence collection services. It is also a major avenue by which victims are linked with advocacy and other support services (Zweig et al. 2021). Although the SAFE Protocol promulgates high-quality, victim-centered care around SAMFEs, federal legislation continues to provide a narrow definition of what an SAMFE should entail, only including gathering information from the patient for the forensic medical history, head-to-toe examination of the patient for physical trauma, determining penetration or force, and collection of evidence from the patient with documentation of biological and physical findings;[3] therefore, only these components are *required* to be paid for by state-identified payers.[4] Many states have gone well beyond this narrow definition to include other services and treatment (Zweig et al. 2014), often outlined in the SAFE Protocol,[5] such as testing and treatment for sexually transmitted infections (STIs) related to rape and pregnancy testing. Our report from 2014 (including data collection between 2010 and 2013) was the only study of its kind to examine payment issues across the country, and this current evaluation of the SAFE Protocol implementation presented an opportunity to gather new information about these issues.

Report Roadmap

The current study, along with information from SAFEta.org, reexamines issues around SAMFE payment to provide updates to what we shared in 2014. Box 1 describes the methods and data collection activities of the current study. Our findings are presented in four sections. First, we describe stakeholders' perceptions about the extent to which survivors receive SAMFEs free of charge and without being required to report their assaults to law enforcement. Second, we identify which public payers are covering SAMFE costs across the country, and third, we examine which portions of the exam are covered by these state-designated payers. Fourth, we explore whether the payment levels are high enough to cover the full costs of exams and conclude with recommendations around what's next to improve SAMFE payment practices.

BOX 1

Evaluation of the Implementation of the SAFE Protocol

Urban and the International Association of Forensic Nurses' evaluation of the SAFE Protocol was a cross-sectional, mixed-methods study incorporating the perspectives of multiple stakeholders at the state and local levels. We conducted the following data collection activities (see our associated brief for a full description of the study methods):

- **A census of state sexual assault coalitions.** We invited 56 state sexual assault coalitions to participate in an online survey; 48 completed surveys, yielding an 86 percent response rate.
- **A census of state Violence Against Women Act administrators.** We invited 56 VAWA administrators to participate in an online survey; 47 completed surveys, yielding an 84 percent response rate.
- **A national survey of sexual assault nurse examiner programs.** We invited representatives from 598 SANE programs to participate in an online survey; 379 programs participated, yielding a 63 percent response rate.
- **A survey of advocates from nonprofit sexual assault service providers and rape crisis centers.** We invited representatives from 364 local nonprofit, community-based victim advocacy programs from the same jurisdictions as participating SANE programs (referred by participating SANEs or identified through internet searches) to participate in an online survey; 261 participated, yielding a 72 percent response rate.
- **Case studies with local stakeholders involved in sexual assault responses.** We conducted virtual case studies in four jurisdictions involving observations of multidisciplinary team (or sexual assault response team) meetings and semistructured interviews with stakeholders involved in local sexual assault responses. Interviews were conducted with 35 stakeholders: 6 SANEs and 1 social worker from 4 SANE programs; 8 victim advocates from 5 advocacy programs; 5 detectives and 1 chief of police from 6 law enforcement agencies; 5 prosecutors and 1 victim witness advocate from 4 prosecutor offices; 2 crime lab representatives from 2 state crime labs; and 6 administrators (a victim compensation administrator, a Title IX coordinator, a governor's office representative, a state forensic nursing coordinator, and two local SART coordinators).

A note on survivor participation: we are committed to including the voices of those most affected by the sexual assault response system—survivors of sexual assault—when conducting research on these issues. At each case study site, we asked local stakeholders to help us identify and recruit survivors so we could hear about the services and responses they encountered in their community from their perspective. Potential participants were offered $40 in appreciation of their time and expertise. Because of complications of the COVID-19 pandemic (e.g., stakeholders reported having less contact with survivors during this time) and because interviews were being conducted virtually, stakeholders were unable to identify survivors interested in speaking with us. Stakeholders reported survivors were reluctant to meet virtually rather than in person. We acknowledge this is a limitation of this project.

Do Survivors Get Exams Free of Charge and Without Having to Report to Law Enforcement?

Each group of survey respondents—VAWA administrators, representatives from state sexual assault coalitions, representatives from local SANE programs, and corresponding local victim advocates—have informed perspectives around the issues being reported here and were chosen for their expertise in the sexual assault response field. Each group should be informed about the SAFE Protocol implementation and the component of the protocol specific to SAMFE payment practices and policies. For instance, VAWA administrators are required to certify to the Office on Violence Against Women their states' compliance with the 2005 VAWA regulations around SAMFE payment. State coalitions may have played a role in negotiating the payment practices in their states and what services are covered as part of the SAMFE and may also provide training around payment practices in their states. SANEs and local sexual assault service providers are the local, on-the-ground practitioners that help ensure survivors receive free exams. SANEs in particular inform patients about the exam being free and what is covered as part of those free services. Therefore, although we did not survey a national sample of survivors about whether they had received their exams free of charge (which was beyond the scope of the current study), the respondents we chose to gather data from have information and expertise that can shed light on the issues of interest.

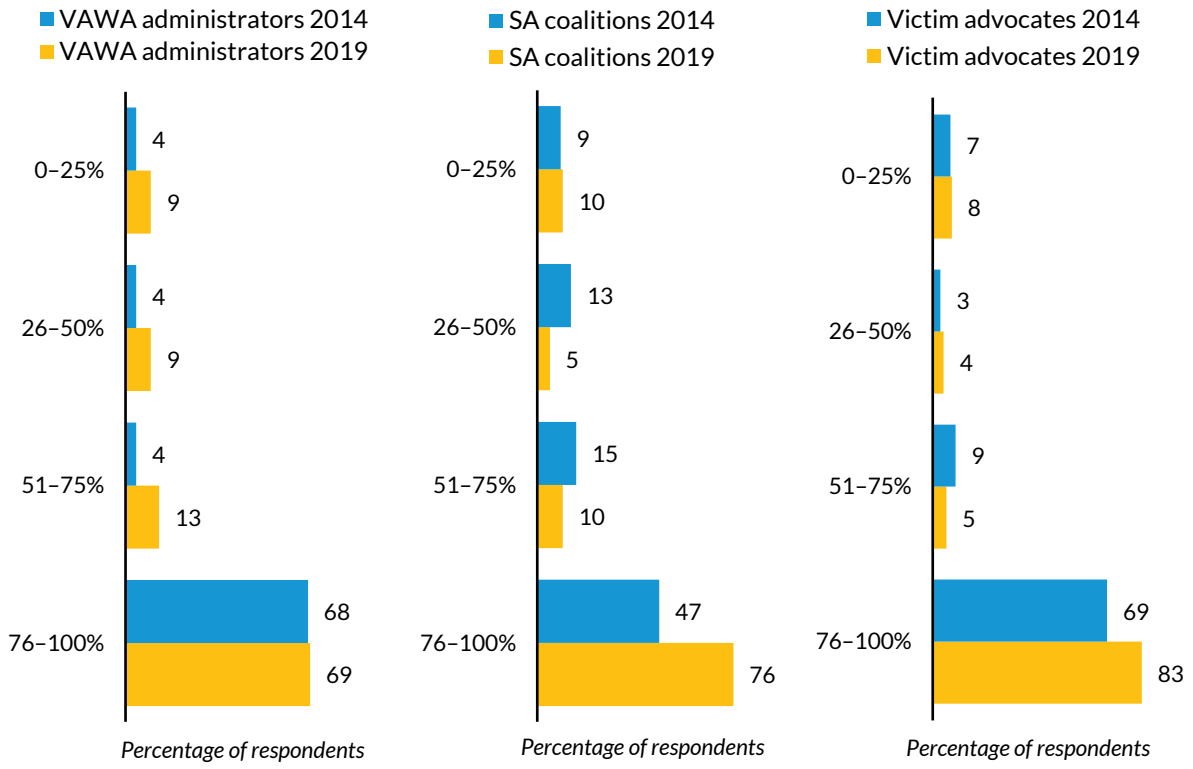
According to the perceptions of VAWA administrators, sexual assault coalitions, and victim advocates, most survivors receive SAMFEs without ever having to pay for the services rendered (figure 1). The proportions of sexual assault coalitions and victim advocates that perceive most survivors as receiving free exams increased between 2014 and 2019; 47 percent of sexual assault coalitions and 69 percent of victim advocates reported that 76 to 100 percent of survivors received free exams in 2014, and 76 percent of sexual assault coalitions and 83 percent of victim advocates reported the same in 2019. The proportion of VAWA administrators that estimated that most survivors receive free exams between 2014 and 2019 has remained about the same—in 2014, 68 percent of VAWA administrators reported that 76 to 100 percent of survivors received free exams, and 69 percent reported the same in 2019. In 2014, we did not survey SANEs about this information, so we only have data from them for 2019. Their perceptions align with other stakeholders that most survivors receive exams free of charge without ever having to pay, with 88 percent reporting that 76 to 100 percent of survivors receive free exams.

We also asked about access to free exams and billing survivors for the costs of SAMFEs during our stakeholder interviews in the four case study sites. No SANE program from our case study sites

reported billing survivors directly. However, these stakeholders shared that communication breakdowns and mislabeled hospital codes can lead to some survivors erroneously being billed by hospitals despite policies making exams free of charge, particularly by hospitals in more rural areas that serve fewer sexual assault patients annually than others and by hospitals that outsource their billing departments to third parties. To prevent even the chance of erroneously billing the survivor, some SANE programs from case study sites do not enter SAMFE patient information into hospital-wide records systems and/or do not have the ability to authorize insurance collection for services they provide. Others ensure that the government professionals handling SAMFE reimbursement claims from hospitals are specially trained and familiar with all pertinent federal guidelines and the SAFE Protocol. Survivors should not be billed for any service included in an SAMFE but may receive bills for additional medical services and treatments outside of what constitutes an SAMFE.

FIGURE 1

Percentages of VAWA Administrators (Left), Sexual Assault Coalitions (Center), and Victim Advocates (Right) Reporting That Victims Get Exams Without Ever Paying Out of Pocket, 2014 versus 2019

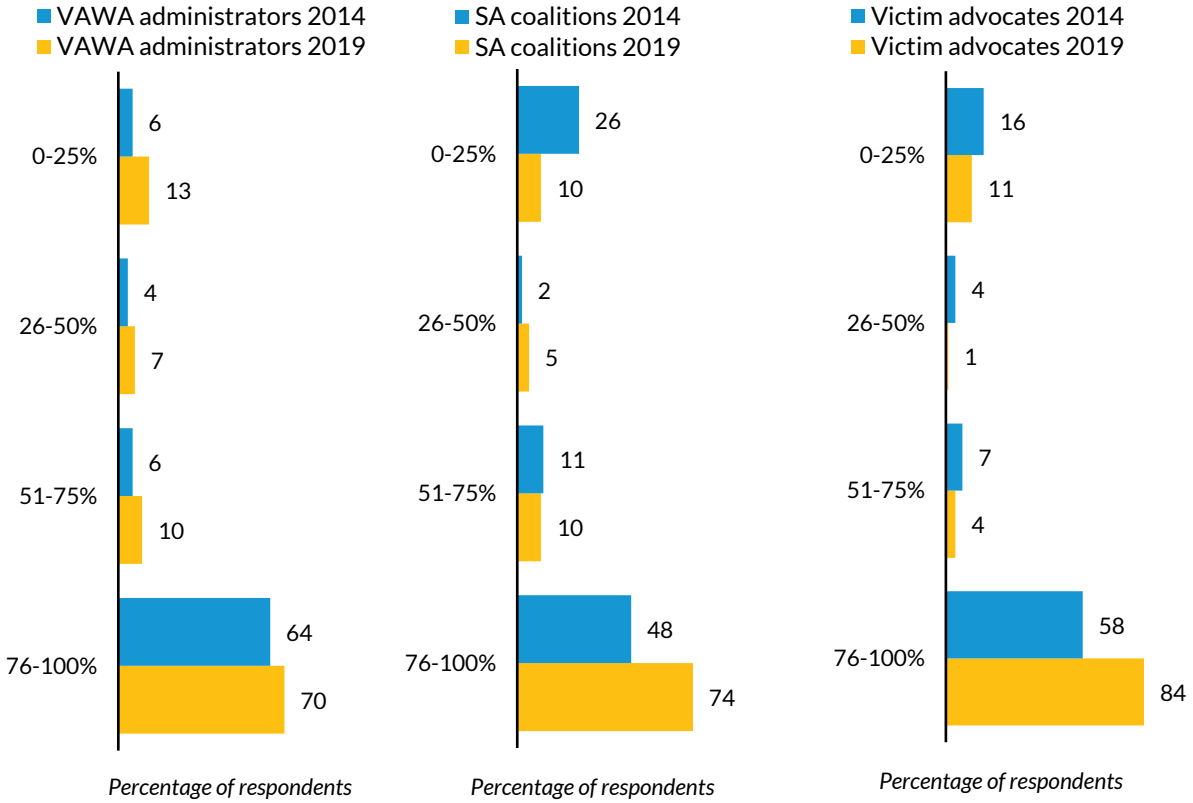


Sources: Urban Institute 2014 surveys of VAWA administrators, SA coalitions, and victim advocates, and Urban Institute and International Association of Forensic Nurses 2019 surveys of VAWA administrators, SA coalitions, and victim advocates.
Notes: SA = sexual assault. 2014 VAWA administrator *N* = 50; 2019 VAWA administrator *N* = 32; 2014 SA coalition *N* = 47, 2019 SA coalition *N* = 41; 2014 victim advocate *N* = 407, 2019 victim advocate *N* = 185.

Findings about free exams and required police reporting mirror the above findings. According to VAWA administrators, sexual assault coalitions, and victim advocates, most victims receive free SAMFEs without being required to report their assault to law enforcement (figure 2). The proportions of sexual assault coalitions and victim advocates that perceive most victims as receiving free exams without being required to report increased between 2014 and 2019: 48 percent of sexual assault coalitions and 58 percent of victim advocates reported that 76 to 100 percent of victims received free exams without being required to report in 2014, compared with 74 percent of sexual assault coalitions and 84 percent of victim advocates in 2019. The proportion of VAWA administrators perceiving the same increased slightly during this period: in 2014, 64 percent of VAWA administrators reported that 76 to 100 percent of victims received free exams without being required to report to law enforcement, compared with 70 percent in 2019. In 2014, we did not survey SANEs about this information, so we only have data from them for 2019. They agree that most victims receive exams free of charge without being required to report to law enforcement, with 87 percent reporting that this is the case for 76 to 100 percent of victims.

FIGURE 2

Percentages of VAWA Administrators (Left), Sexual Assault Coalitions (Center), and Victim Advocates (Right) Reporting That Victims Get Exams Free Without Being Required to Report to Law Enforcement, 2014 versus 2019



Sources: Urban Institute 2014 surveys of VAWA administrators, SA coalitions, and victim advocates, and Urban Institute and International Association of Forensic Nurses 2019 surveys of VAWA administrators, SA coalitions, and victim advocates.
Notes: SA = sexual assault. VAWA = Violence Against Women Act. 2014 VAWA administrator *N* = 50, 2019 VAWA administrator *N* = 30; 2014 SA coalition *N* = 46, 2019 SA coalition *N* = 39; 2014 victim advocate *N* = 406, 2019 victim advocate *N* = 189.

Two stakeholders across the four case study sites (*n* = 2 of 35) said that their jurisdictions require preexam authorization from law enforcement in order to provide survivors SAMFEs. This indicates that some SANE programs still depend on law enforcement to facilitate the SAMFE process, which may have negative implications for survivors' agency and well-being. For example, one SANE program is inaccessible to survivors unless they are escorted by a police officer because the location where exams are performed is confidential to the public, making it difficult for survivors to access without police. Further, according to one interview respondent working in health care, law enforcement officers sometimes still incorrectly believe that they get to decide whether someone should receive an exam.

Who Pays for SAMFEs?

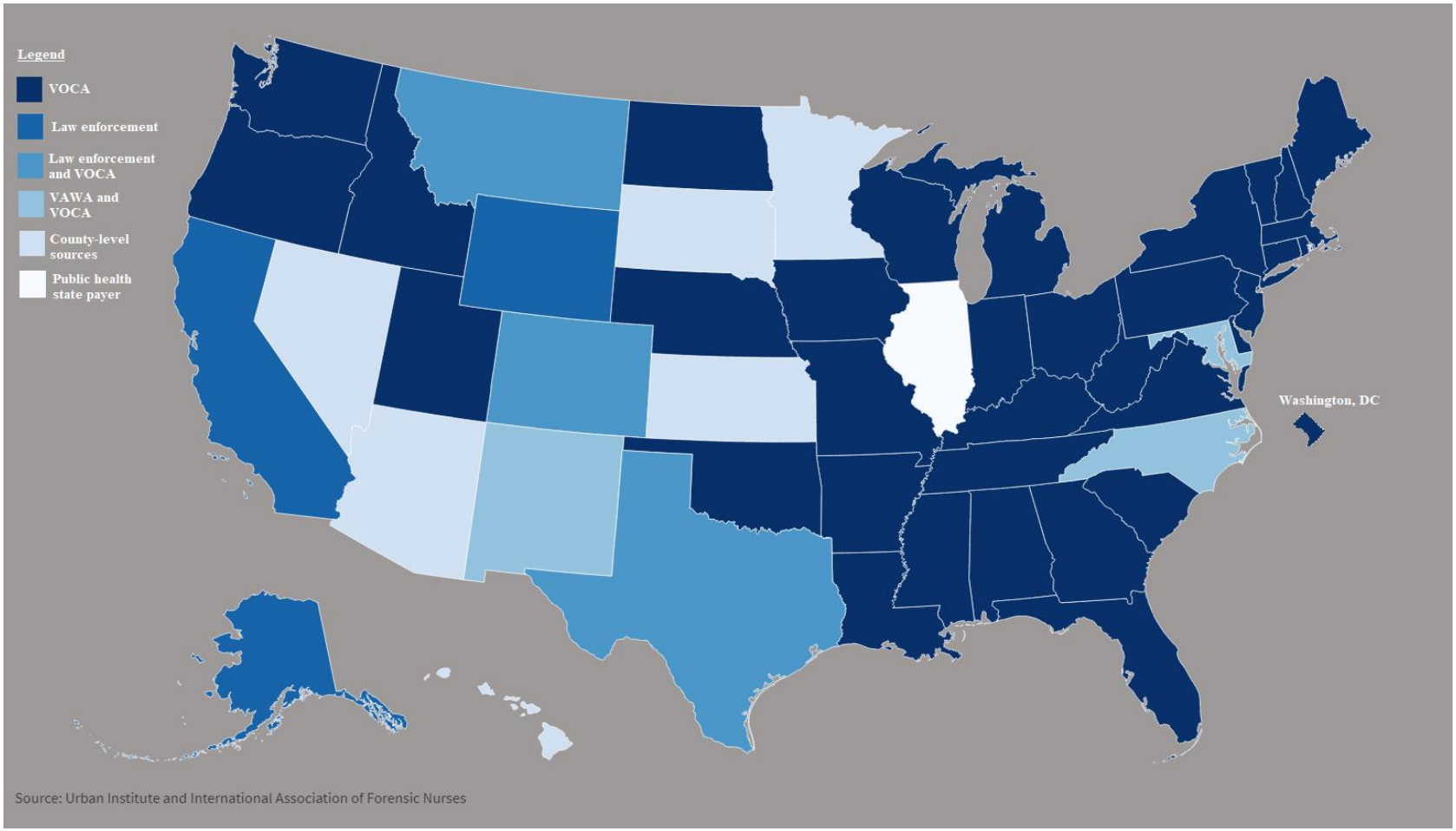
Figure 3 maps the designated public funding sources for payment of SAMFEs across the 50 states and the District of Columbia. By far, VOCA is the most common source of funds for covering the cost of SAMFEs: 35 states (67 percent) use VOCA funds to cover the costs of all exams conducted in their states. Three states (6 percent) use VOCA and VAWA funding, and 3 states (6 percent) use law enforcement and VOCA funding.[6] Altogether, 41 states (80 percent) use VOCA to cover the costs of all or at least some of the exams conducted in their states. Six states (12 percent) use law enforcement funding to cover SAMFEs (though 3 combine that with VOCA funding) and 1 state uses a public health funding source. Six states (12 percent) use county-administered models where funds that cover the costs of SAMFEs vary throughout the state depending on the county and may be combinations of funding sources or single sources, including line items in county budgets, law enforcement and/or prosecution funds, VOCA or VAWA funds, and so on.

Stakeholder interviews in the four case study sites provide further information on what SAMFE payment practices look like in practice. A noteworthy number of people across stakeholder types (*n* = 15 of 35) were not entirely clear on how SAMFEs in their jurisdictions were funded, which demonstrates that payment practices can be complicated even for professionals in the field. Of those stakeholders who did speak to SAMFE payment practices, all reported that SANEs and victim advocates in their jurisdictions inform survivors that they will not be held financially responsible for receiving an SAMFE at the time of the examination, aligning with VAWA mandates and best practices suggested in the SAFE Protocol. Stakeholders also reported that funding streams can be combined to cover all exams provided in a state; for example, a SANE program from one case study site reported that SAMFEs in their state were paid for through a combination of VOCA funds and collected court fees.

In addition to variations in state-designated payers, the specifics of how forensic nursing programs bill for SAMFEs may vary by state and even across jurisdictions within the same state. Through interviews with stakeholders in our case study sites, we found that although a significant number of jurisdictions send SAMFE bills directly to their state VOCA administrator, some bill their state's dedicated sexual assault reimbursement agency, and others bill the police departments they work with.

FIGURE 3

Map of Public Payers for Sexual Assault Medical Forensic Examinations



Sources: These designations are based on cross-referencing of multiple data sources, including publicly available online sources, the International Association of Forensic Nurses website SAFEta.org, and Urban and International Association of Forensic Nurses surveys of VAWA administrators and sexual assault coalitions.
Notes: LE = law enforcement. VAWA = Violence Against Women Act. VOCA = Victims of Crime Act. VOCA *N* = 35; county-level sources *N* = 6; law enforcement *N* = 6 (3 are law enforcement only and 3 are law enforcement and VOCA); VAWA + VOCA mixed funding *N* = 3; public health state payer *N* = 1.

In our surveys, we asked respondents whether billing a survivor's insurance was prohibited in their states as part of strategies for covering the costs of SAMFEs. About one-half of sexual assault coalitions and VAWA administrators responded that billing insurance was prohibited, and about 60 percent of advocates and 64 percent of SANEs reported the same. Of the SANEs that reported billing survivors' insurance was *not* prohibited (*n* = 127 SANEs representing 37 states),

- 30 percent reported that they first ask the survivor's permission to bill insurance and if the survivor says no, they then bill the designated public payer;
- 7 percent reported that they do not ask the survivor's permission to bill their insurance, but that they bill the survivor's insurance first and that any uncovered costs are then billed to the designated public payer; and
- 4 percent reported that they do not ask the survivor's permission to bill their insurance, but that they bill the survivor's insurance first and that any uncovered costs are covered by the hospital.

Of the SANEs, victim advocates, and state-level representatives (*n* = 18) from the case study sites, 7 reported that hospitals in their local jurisdiction or across their state do not bill patients' insurance for SAMFEs. Others shared that their state's policy requires patients' consent, and if they are billed, the facility ensures they do not incur any deductibles or copayments. One interviewee noted that only if a patient had procedures, imaging, or treatments beyond the SAMFE (with the patient's permission) would they then bill the patient's insurance for those services.

Which Parts of the SAMFE Are Paid for by Public Payers?

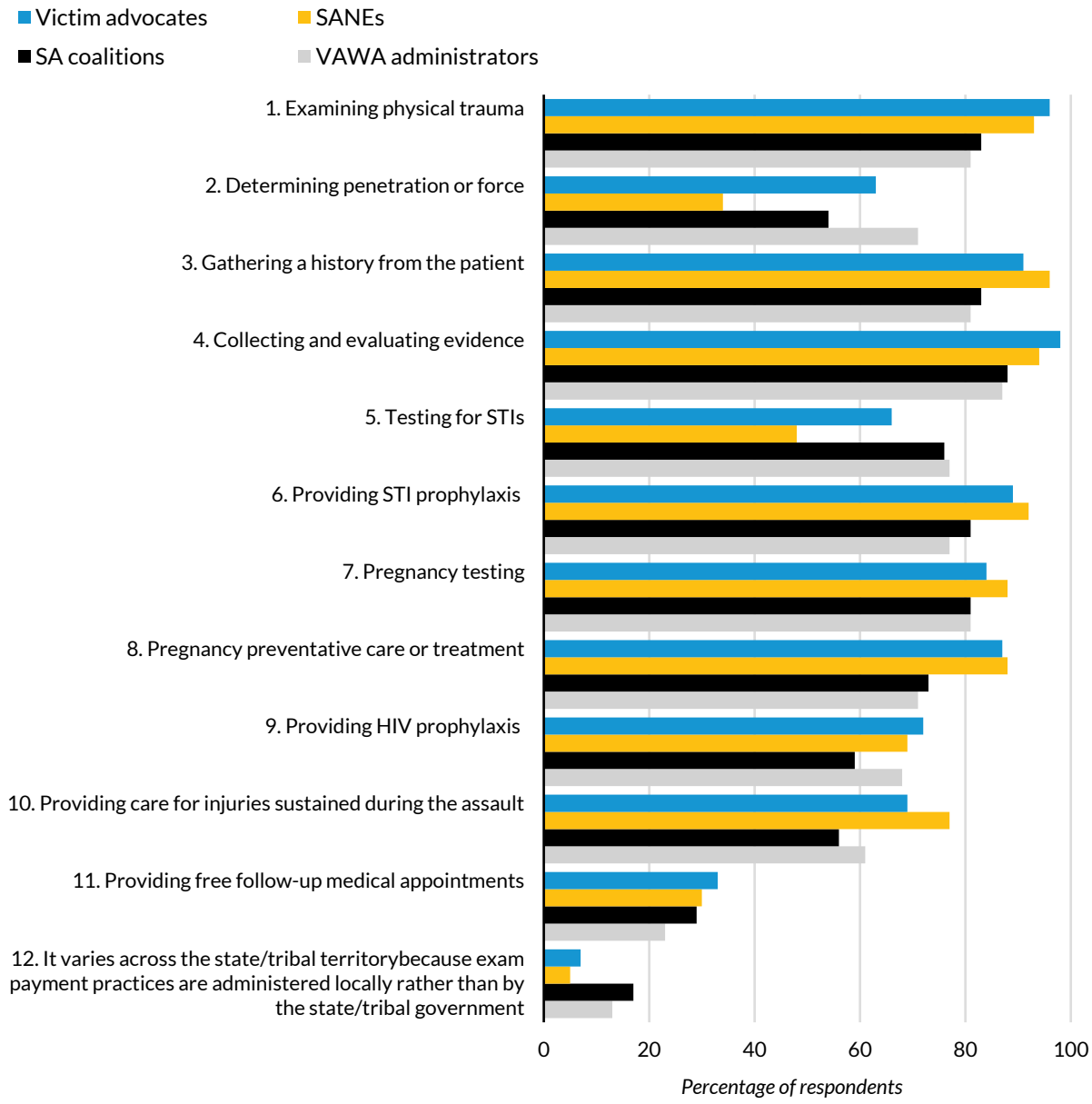
In practice, each state (or local jurisdiction, if payment is county administered) decides which services and procedures will be covered as part of free SAMFEs (Zweig et al. 2014), and most states provide more services free of charge than is mandated by the 2005 VAWA's narrow definition of what should minimally be included in an exam. For example, some sexual assault survivors may arrive at the hospital with acute medical needs and serious injuries beyond the scope of a standard medical forensic examination. For survivors who receive medical services that are not considered by their state to be a core component of an exam, billing can become more complicated and dependent on particular state policy guidelines. SANEs and advocates we spoke with across our four case study sites emphasized the role of state victim compensation funds. Community-based advocacy organizations often assist survivors in completing paperwork and working with victim-advocate liaisons in law enforcement or

state offices to secure the funding to cover costs through their states' victim compensation structures. But in some states, victim compensation funds still require survivors to participate in the criminal legal process in order to receive reimbursement for treatment or services that fall *outside* their state's defined SAMFE components. In these situations, for survivors who do not report their assaults to police, few options for reimbursement for treatment and services exist.

Figure 4 shows our survey findings about which components of an exam are legally defined and therefore paid for across states. The element survey respondents most commonly reported was collecting and evaluating evidence (reported by 87 percent of VAWA administrators, 88 percent of sexual assault coalitions, 94 percent of SANEs, and 98 percent of victim advocates). The second-most-commonly reported was examining physical trauma (reported by 81 percent of VAWA administrators, 83 percent of sexual assault coalitions, 93 percent of SANEs, and 96 percent of victim advocates). These elements are consistent with what is legally mandated by VAWA. But other commonly reported services fall outside this federal definition, such as providing STI prophylaxis, pregnancy testing, and pregnancy preventative care or treatment. Fewer respondents reported that providing human immunodeficiency virus prophylaxis was a legally defined element of the exam (though 59 to 72 percent reported this, depending on type of respondent) or that providing care for injuries sustained during the assault was part of the exam (though 56 to 77 percent reported this, depending on the type of respondent). The least commonly reported element included in the exam was providing free follow-up medical appointments (reported by 23 percent of VAWA administrators, 29 percent of sexual assault coalitions, 30 percent of SANEs, and 33 percent of victim advocates).

FIGURE 4

Legally Defined Elements of Sexual Assault Medical Forensic Examinations across Survey Respondents' States



Source: Urban and International Association of Forensic Nurses 2019–2020 survey data.
Notes: SA = sexual assault. SAC = X. SANE = sexual assault nurse examiner. STI = sexually transmitted infection. VAWA = Violence Against Women Act. Victim advocate *N* = 205, SANE *N* = 337, SA coalition *N* = 41, VAWA administrator *N* = 31. Responses were missing for 1 SA coalition, 5 VAWA administrators, 32 SANEs, and 33 victim advocates; responses for 6 SA coalitions, 11 VAWAs, 10 SANEs, and 23 victim advocates were "I don't know."

Stakeholders interviewed across the four case study sites provided insight about how the services that are considered part of SAMFEs are legally defined. All sites reported providing SAMFEs (including

head-to-toe physical examinations, necessary photographs, and evidence collection procedures) free of charge to survivors and billing their public payer for the costs. Some programs include diagnostic treatments, such as CT scans, in the set of SAMFE-affiliated services they provide free of charge to patients, whereas others specifically exclude extra labs and services like radiology from the SAMFE services list. One SANE reported that their program fully covers all medical care related to the assault in question as part of the free SAMFE; the examination, any necessary services for responding to acute injuries, a full course of human immunodeficiency virus prophylaxis medication, and 90 days of follow-up care are provided without charge to the survivor. Professionals in this jurisdiction determined that the most trauma-informed approach for survivors and for properly assessing and treating strangulation-related injuries was to cover a 24-hour window of services. Another SANE reported that their program fully covers all treatment, including hospital admission and any ambulance use, related to an assault within 24 hours of administering the SAMFE. Prophylactic care was also provided free of charge to survivors presenting at all of the SANE programs we studied. Plan B medication (which can prevent pregnancy) was only available in three of the four sites for free as part of an SAMFE.

Even in jurisdictions taking an innovative approach in responding to sexual assault, some programs face gaps in what is considered part of a free SAMFE. Two stakeholders shared that SANEs have some discretion as to the level of STI evaluation and care they offer their sexual assault patients, and two others revealed that Plan B medication cannot be offered as part of free SAMFE packages because of individual hospitals' policies and state legal restrictions. Other programs noted their failure to provide STI care on site as part of their free SAMFEs; some SANE programs in our case study sites refer patients to external providers for STI care, whereas others offer it on site at the hospital but are required to bill patients for it.

Are Reimbursement Levels High Enough to Cover the Costs of SAMFEs?

In 2013, the average cost of medical charges associated with a rape event was $6,737, 14 percent of which was paid by survivors (Tennessee et al. 2017), and insurance providers and survivors, collectively, paid more than $9.1 million for medical services received because of rape. Rates of reimbursement for SAMFE costs, facility space, supplies, equipment, and health care provider compensation are critically deficient. The amount determined for exam reimbursement is often left to states to decide and can default to a predetermined, capped reimbursement rate. State-designated payers reimburse providers at rates ranging from $300 to well above $1,000 to cover the costs of SAMFEs.[7] Some states have a

capped reimbursement rate that is tiered. This tiered structure is based on the level of service provided to the patient during the SAMFE.

Of the SANEs, victim advocates, and state-level representatives (*n* = 18) in the case study sites, 13 reported information about their payment models, including levels of funding and reimbursement. Some interviewees reported they were not certain of their programs' major funding sources but also shared that funding should be increased. Some stated that increased funding could be used to increase training opportunities, purchase supplies to conduct SAMFEs, and simply remain sustainable as programs that provide services to survivors of sexual assault. One stakeholder reported they are sufficiently funded and can purchase any amount of supplies or equipment they need to conduct SAMFEs, but also noted that they "rely heavily on their fundraising efforts, their hospital foundation board, and community donations, otherwise the hospital absorbs the cost of the exam and supplies."

These findings echo those in our 2014 report (Zweig et al. 2014). Then, like now, we frequently heard that reimbursement caps often fell far short of covering the full costs of SAMFEs. In that study, exam providers cited shortfalls of several hundred to several thousand dollars per exam. Many providers mentioned simply writing off these costs and absorbing the losses, similar to the stakeholder from this study who mentioned their hospital absorbing exam and supply costs. Now, like then, it seems difficult to project that a health care agency will continue to support and provide services that they commonly (or always) take a loss for.

Conclusions and Recommendations

Findings from the current study, along with information from SAFEta.org, reexamined issues around SAMFE payment practices to provide updates to what we shared in 2014 (Zweig et al. 2014). Four major conclusions can be drawn, each with corresponding recommendations to improve policy and practice. The first conclusion represents changes from 2014 to 2019; the second, third, and fourth conclusions echo conclusions drawn in 2014 and lead to similarly situated recommendations.

First, according to state and local stakeholders working directly in sexual assault response—SANEs, victim advocates, sexual assault coalitions, and VAWA administrators—most sexual assault victims seeking SAMFEs receive the exams free of charge and without being required to report assaults to the police. This appears to have improved; more victim advocates, VAWA administrators, and sexual assault coalitions reported in 2019 that most victims receive free exams and are not required to report to police than did in 2014. Recommendations related to this finding are as follows:

- *Recommendation for practice:* continue to provide training and technical assistance to state- and local-level stakeholders (those directly involved in connecting or referring victims to exam providers, in providing SAMFEs to patients, in billing patients for services rendered, and in providing support and advocacy to survivors) so all understand that SAMFEs should be free of charge to victims and that victims should not be required to report an assault to police to access such free exams.
- *Recommendation for practice:* continue to implement practices that prevent erroneously billing patients for SAMFE services. Some ways to prevent this include not requiring SANEs to document services in hospital-wide records systems, creating automatic billing processes for SAMFEs to state-designated public payers, and immediately correcting errors that do happen when they are brought to the attention of hospital administrators.
- *Recommendation for practice:* if not already available, create a dashboard or another type of data tool that tracks SAMFE billing but without any identifying patient information to ensure that the designated payer is billed for the exam and that patients are not erroneously billed. Without identifying information, these data could be tracked across individual locations and at the state level.
- *Recommendation for research and practice:* researchers should consider working with local practitioners (SANEs and advocates) to regularly assess whether survivors experience issues with being erroneously billed for exams or billed for portions of the services that their state does not cover (but that other states do). Although we gathered perspectives from those in the sexual assault response system most informed on these issues, it would be good to also understand these issues based on feedback from survivors themselves.

Second, VOCA funds continue to be the most relied-upon public payer to cover the cost of SAMFEs. Eighty percent of states use these funds to cover the costs of all or some SAMFEs in their state. Our recommendation related to this finding is as follows:

- *Recommendation for policy:* states that rely on VOCA funds to cover SAMFE costs might examine whether a dedicated state budget funding stream might be identified to replace the use of these funds, such as through designated line items in state budgets. Or, a specific federal funding stream could also serve this purpose and potentially lead to uniformity across states and greater sustainability of funding. Recently, states have seen reductions in their VOCA funding owing to decreases in the Crime Victim Fund (which is funded with fines and fees related to criminal convictions and not taxes). If sources of funding other than VOCA can cover SAMFEs, states will less often find themselves having to make

difficult decisions about how to use a limited resource, and VOCA funds can be concentrated on providing direct benefits to survivors related to other costs they incur because of their victimization (e.g., mental health services, lost wages, etc.) and services.

Third, many states have expanded the services provided as part of free SAMFEs beyond those in the federal definition. But even some of the states that have expanded their services still leave out essential items that would be helpful to the long-term well-being of survivors (e.g., human immunodeficiency virus prophylaxis, follow-up medical care). This was also true in 2014, when we first documented states expanding the federal SAMFE definition and wide variation in what is covered state-to-state as part of free SAMFEs (Zweig et al. 2014). What is provided free of charge still varies depending on where victims live. Our recommendation is as follows:

» *Recommendation for policy:* VAWA reauthorization should include language that widens what federally mandated treatment and services are included as part of SAMFEs. Elements of the SAFE Protocol that contribute to victim-centered and trauma-informed care (such as those around pregnancy testing and testing and treatment for STIs) that the federal government merely promotes as best practice should be codified in legislation. Without this, there will remain problematic variation across the country in the services and treatment survivors receive as part of the free exam dependent on where they live. A question we posed in 2014 remains relevant: Should the amount of services provided to a rape survivor free of charge depend on the misfortune of which state they happen to be raped in?[8]

Fourth, payment levels from public payers to cover SAMFEs often fall short of the full cost of the exams. Many states have reimbursement caps in place regardless of any variation in the services rendered, and these caps are viewed by stakeholders as woefully inadequate. Our recommendation is as follows:

» *Recommendation for practice:* state-level stakeholders in charge of setting reimbursement caps for SAMFE costs should conduct regular assessments of whether these caps are adequate and adjust funding levels commensurate with changing costs of the services and supplies. The costs of SAMFEs may vary across hospitals and across a state for legitimate reasons, resulting in some hospitals receiving reimbursement for the full cost of their services while others provide SAMFEs at a loss.

Notes

[1] Janine M. Zweig, "What you should know about victims who get billed for rape exams," *Urban Wire* (blog), October 17, 2014, https://www.urban.org/urban-wire/what-you-should-know-about-victims-who-get-billed-rape-exams.

[2] States can still have exam providers ask victims whether they can bill their insurance providers if they are paying for exams with funds other than STOP funding. See https://www.justice.gov/sites/default/files/ovw/legacy/2014/02/06/consolidated-stop-faqs-bla.pdf.

[3] Violence Against Women and Department of Justice Reauthorization Act of 2005, 42 U.S.C. 3796gg-4[d].

[4] "Frequently Asked Questions about Stop Formula Grants," US Department of Justice Office of Violence Against Women, last updated February 2014, https://www.justice.gov/sites/default/files/ovw/legacy/2014/02/06/consolidated-stop-faqs-bla.pdf.

[5] Zweig, "What you should know about victims who get billed for rape exams."

[6] The source of the funds with which law enforcement pays for SAMFEs is ambiguous, not easily found in public sources, and was not reported in surveys. Some places may use funding from their general operating budgets and some may have grant funding (e.g., STOP or VOCA funds), and this may even vary within a state.

[7] "Exam Payment Resources," SAFEta.org, accessed July 22, 2021, https://www.safeta.org/page/PTAresource.

[8] Janine M. Zweig, "What you should know about victims who get billed for rape exams," *Urban Wire* (blog), October 17, 2014, https://www.urban.org/urban-wire/what-you-should-know-about-victims-who-get-billed-rape-exams.

References

Tennessee, Ashley M., Tamala S. Bradham, Brandi M. White, and Kit N. Simpson. 2017. "The Monetary Cost of Sexual Assault to Privately Insured US Women in 2013." *American Journal of Public Health* 107 (6): 983–88. https://doi.org/10.2105/AJPH.2017.303742.

Zweig, Janine, Lauren Farrell, Kelly Walsh, and Lilly Yu. 2021. "Community Approaches to Sexual Assault: VAWA's Role and Survivors' Experiences." *Violence Against Women* 27 (1): 30–51. https://doi.org/10.1177%2F1077801220949696.

Zweig, Janine M., Lisa Newmark, Darakshan Raja, and Megan Denver. 2014. *Sexual Assault Medical Forensic Exams and VAWA 2005: Payment Practices, Successes, and Directions for the Future*. Washington, DC: Urban Institute.

About the Authors

Janine Zweig is associate vice president for Justice Policy at the Urban Institute. She has conducted research on violent victimization, particularly sexual and intimate partner violence, and has evaluated several provisions of and initiatives related to the Violence Against Women and Prison Rape Elimination Acts and the Office for Victims of Crime's Vision 21.

Nicole Stahlmann is the forensic nursing director with the International Association of Forensic Nurses, overseeing and managing grant-funded projects and providing training, education, and technical assistance. She continues to practice clinically, providing care for patients who have experienced violence.

Lauren Farrell is a policy analyst in the Justice Policy Center and chairs the community-engaged methods users' group. Her research is focused on community engagement, innovative programming for youth development, and community-based supports for survivors and justice-involved people.

Melanie Langness is a policy analyst in the Justice Policy Center, where her research focuses on analyzing systems of violence and harm while centering community-engaged methods and a trauma-informed lens. Their recent work includes an evaluation of an abusive partner intervention program and ongoing technical capacity–building work with victim service organizations in Washington, DC.

Statement of Independence

The Urban Institute strives to meet the highest standards of integrity and quality in its research and analyses and in the evidence-based policy recommendations offered by its researchers and experts. We believe that operating consistent with the values of independence, rigor, and transparency is essential to maintaining those standards. As an organization, the Urban Institute does not take positions on issues, but it does empower and support its experts in sharing their own evidence-based views and policy recommendations that have been shaped by scholarship. Funders do not determine our research findings or the insights and recommendations of our experts. Urban scholars and experts are expected to be objective and follow the evidence wherever it may lead.

500 L'Enfant Plaza SW
Washington, DC 20024

www.urban.org