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**Sent:** Thursday, February 18, 2016 5:44 PM **Subject:** Important  
Message from OVW- Rape Survivor Child Custody Act **Importance:** High

Dear state STOP/SASP administrator:

Last year, Congress enacted the Rape Survivor Child Custody Act (RSCCA), which authorizes OVW to supplement with additional funding the STOP and SASP awards of states that have qualifying laws regarding termination of parental rights of rapists for children conceived through rape. OVW received an appropriation for this purpose in FY 2016 and will begin to award these supplemental funds on FY 2016 awards. States with qualifying laws may receive increased funding totaling up to ten percent of the three-year average of combined STOP and SASP formula grant funds, with 75 percent of that amount going to the SASP award and 25 percent going to the STOP award.

To qualify, the state must have a law that allows the mother of a child conceived through rape to seek court-ordered termination of the parental rights of the rapist with regard to that child, which the court is authorized to grant upon clear and convincing evidence of rape.

If a state wishes to apply for these additional funds, the state will need to include, as an attachment to both its STOP and SASP formula grant applications, a legal opinion stating that the state meets the above requirement and citing any statutory or case law or other authorities relied on in making the determination. This legal opinion may be in the form of a letter addressed to the Director of OVW and must be signed by the state Attorney General or a comparable state official with authority to make binding legal determinations.

OVW recommends that the legal opinion submitted by a state consider two additional issues:

1. The RSCCA requires termination of parental rights “upon clear and convincing evidence of rape.” In OVW’s view, state statutes that require the petitioning parent to provide proof that the other parent was convicted of rape do not meet this standard because the standard of evidence used in rape convictions is proof beyond a reasonable doubt.
2. In OVW’s view, state laws creating a rebuttable presumption that termination of parental rights is in the best interest of a child conceived through rape do not satisfy the requirements of the RSCCA. The Act provides for increased funding only where a state has in place a process that allows the mother to petition for court-ordered termination that “the court is authorized to grant upon clear and convincing evidence of rape.” Under laws that create such rebuttable presumptions, the court would not be authorized to terminate the rapist’s parental rights upon clear and convincing evidence of rape, as the rapist would still be permitted to rebut the presumption that termination is in the best interest of the child.

If the state is awarded the additional funds, such funds will be subject to all of the requirements of the applicable (STOP or SASP) program. Because RSCCA funding will impact both STOP and SASP, we encourage the state administrators for the two programs to coordinate.

The FY 2016 solicitations for both STOP and SASP Formula will include this language on RSCCA; however we wanted to provide you a heads-up prior to the solicitations being released. We will also schedule a couple of conference calls regarding this in the very near future. Lastly, the anticipated release and closing dates for the solicitations are as follows:

## **STOP**

**Release: March 30, 2016**

**Close: May 11, 2016**

## **SASP Formula**

**Release: April 8, 2016**

**Close: May 20, 2016**

*Note: If you received this message in error and/or additional staff should have received this email, it is because the point of contacts listed in GMS need to be updated. Please forward this email to the appropriate people in your organization and then access GMS to submit a Grant Adjustment Notice changing contact information. If there have been recent changes to the point of contact/authorized representative, even if you received this email, please double check GMS to make sure your information is up to date.*

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