Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence

A roundtable discussion

COPS
Community Oriented Policing Services
U.S. Department of Justice

Police Executive Research Forum

Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence

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Letter from the Director

Dear colleagues,

The brunt of sexual assault and domestic violence is borne disproportionately by women and LGBT individuals, but the immediate harm and long-term consequences of these violent crimes impact the community as a whole.

According to a 2013 Bureau of Justice Statistics report, only about 35 percent of sexual assaults and 57 percent of domestic abuse crimes are reported because many victims are unable or unwilling to speak up about incidents of assault and abuse.[1] Notably, research on sexual assault victims who reported the incident to officers found that 87 percent felt blamed for their assault after speaking with officers, and 69 percent encountered officers who discouraged making a report.[2] Likewise, there is the perception that law enforcement officers can hold bias against vulnerable populations such as LGBT individuals; racial, ethnic, or religious minorities; immigrants; and sex workers. However, officers have a sworn duty not only to protect individuals from harm but also to afford every person respect, free of bias.

In response to discussions with advocates and law enforcement agencies from across the country, the COPS Office partnered with the U.S. Department of Justice's Civil Rights Division (CRT) and Office on Violence Against Women (OVW) to develop guidance on gender bias in response to victims of sexual assault and domestic violence.

On August 4, 2015, the COPS Office and Police Executive Research Forum held a roundtable discussion, at which CRT and OVW also participated, to discuss a draft of the guidance with law enforcement executives and officers, victim advocates, academia, subject matter experts, and other stakeholders. This publication about the roundtable shares the insights and recommendations of these stakeholders, who reviewed and discussed the draft guidance, highlighting issues around agency culture, the need for a survivor-centered approach, officer training, agency policy, officer accountability, and resources and partnerships.

This is an eye-opening publication, and I recommend that every law enforcement executive read it. As noted in the first chapter, the values, beliefs, and behaviors—whether unconscious or implicit—of all agency personnel, from top executives to newly recruited officers, impact the agency's response to sexual assault and domestic violence.

In closing, I commend the roundtable participants for the many frank and valuable contributions they made to this effort through their commitment to address the issues of gender bias and finding realistic, workable solutions to help victims of sexual assault and domestic violence.

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1. Jennifer Truman and Lynn Langton, "Table 6. Percent of Victimizations Reported to Police, by Type of Crime, 2004, 2012, and 2013," in *Criminal Victimization, 2013* (Washington, DC: Bureau of Justice Statistics, September 2014), 7, http://www.bjs.gov/content/pub/pdf/cv13.pdf.
2. Rebecca Campbell, "Research for the Real World: The Neurobiology of Sexual Assault" (presentation at the National Institute of Justice's Translational Criminology Seminar, December 3, 2012), slides 13 and 14, http://nij.gov/multimedia/presenter/presenter-campbell/Pages/welcome.aspx.

State, local, and tribal law enforcement has a sworn duty not only to protect individuals from harm but also to afford everyone respect, free of explicit and implicit bias. Our work must be informed by the experiences of survivors, and investigations should be handled with a victim-centered approach that holds offenders accountable. Clear policies, ongoing training, and responsive accountability systems will improve outcomes and increase community safety. These crimes not only are a serious threat to public safety but also undermine the principles of tolerance that our nation was founded upon and contradict the principles of procedural justice, which support trust in law enforcement.

Sincerely,

Ronald L. Davis
Director
Office of Community Oriented Policing Services

Acknowledgments

We at the Police Executive Research Forum (PERF) and Office of Community Oriented Policing Services (COPS Office) would like to thank all of the law enforcement leaders, advocates, scholars, and other professionals who participated in the August 4, 2015 roundtable in Washington, D.C. (see the complete participants list at the end of this publication). Their insights prompted a thoughtful and forthright discussion on identifying and preventing gender bias in law enforcement response to sexual assault and domestic violence.

We would also like to thank PERF staff members who conducted interviews, prepared for and hosted the joint COPS Office and PERF roundtable, and wrote and edited this publication: Craig Fischer, communication director, Jessica Toliver, director of technical assistance, Lindsay Miller Goodison, senior research associate, and Adam Kemerer, research assistant. In addition, we thank the COPS Office staff members who helped organize the roundtable and contributed to this publication: Helene Bushwick, supervisory policy analyst, Melanca Clark, chief of staff, Elizabeth Simpson, analyst, and Shannon Long, assistant director for communications. We also thank Eric Agner, Erin Canning, and Esteban Hernandez, of the COPS Office Publishing staff for producing this final product.

Finally, we would like to thank all of the federal officials and staff who worked on the guidance and continue to partner with law enforcement agencies and communities to reduce sexual assault and domestic violence while advocating for proper administration of justice when crimes occur:

- Bea Hanson, principal deputy director, and Brenda Auterman, Rosie Hidalgo, and Jennifer E. Kaplan of the U.S. Department of Justice's Office on Violence Against Women
- Vanita Gupta, principal deputy assistant attorney general, and Sharon Brett, James Cadogan, Michelle Coles, Christy Lopez, Jennifer Mondino, Becky Monroe, Nicole Lee Ndumele, Jon Ostrowsky, and Alisa Tiwari of the U.S. Department of Justice's Civil Rights Division
- Paige Herwig of the Office of the Attorney General; Danielle Conley of the Office of the Deputy Attorney General; and Tammie Gregg of the Office of the Assistant Attorney General

Introduction

On August 4, 2015, law enforcement executives and officers, crime victim advocates, academics, and other subject matter experts convened to discuss a draft of the U.S. Department of Justice's (DOJ) *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence* publication[3] and to share promising practices and to develop effective strategies for serving victims of these crimes.

The guidance in that publication aims to reflect and further the partnership between the DOJ and law enforcement executives, line officers, and supervisors, who work to uphold the civil and human rights of the communities they serve. Sexual assault and domestic violence constitute a significant portion of total violent crime,[4] but two out of three victims of such offenses do not seek law enforcement assistance.[5] It is incumbent upon law enforcement agencies to provide support for victims of sexual assault and domestic violence who wish to pursue criminal charges, and agencies should create an environment in which victims feel comfortable and respected. Law enforcement agencies are usually a crime victim's first point of contact with the larger criminal justice system, so they have a responsibility to establish their legitimacy with victims.

Women and lesbian, gay, bisexual, and transgender (LGBT) people have been disproportionately affected by crimes of sexual assault and domestic violence, and underenforcement of such offenses can constitute a gender-based bias on the part of law enforcement agencies.[6] This bias can be avoided with thoughtful and informed policy development, high-quality training, strong leadership, and established accountability measures.

The DOJ released *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence* on December 15, 2015 with the support and input of state, local, tribal, and territorial law enforcement agencies; advocates and experts in the field of domestic violence and sexual assault; and public service agencies and stakeholders. A replica of that document is included at end of this publication, and a related fact sheet[7] is available online.

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3. *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence* (Washington, DC: U.S. Department of Justice, 2015), http://www.justice.gov/opa/file/799366/download.
4. Jennifer Truman and Lynn Langton, "Table 1. Violent Victimization, by Type of Violent Crime, 2004, 2012, and 2013," in *Criminal Victimization, 2013* (Washington, DC: Bureau of Justice Statistics, September 2014), 2, http://www.bjs.gov/content/pub/pdf/cv13.pdf.
5. Truman and Langton, "Table 6. Percent of Victimizations," 7 (see note 1).
6. *Joint Statement of the Office of Community Oriented Policing Services, the Office for Victims of Crime, and the Office on Violence Against Women on Addressing Gender-Discrimination in Policing* (Washington, DC: U.S. Department of Justice, 2013), http://www.cops.usdoj.gov/pdf/OVW-OVC-COPS-Joint-Statement.pdf.
7. *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence* [fact sheet] (Washington, DC: U.S. Department of Justice, 2015), http://www.justice.gov/opa/file/799371/download.

Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence: A Roundtable Discussion shares the discussion and opinions of the law enforcement officials, academics, and subject matter experts who attended the August 4, 2015 roundtable, and the information and recommendations included in the report are those of the participants (see "Conference Participants" on page 45).[8]

The first chapter of this publication, "Agency Culture," discusses how a law enforcement agency's overall culture—the values, beliefs, and behaviors of an organization, from the top executives to newly recruited officers—can impact the agency's response to sexual assault and domestic violence. Participants at the discussion shared strategies for improving agency culture, such as encouraging leaders to set positive examples, recruiting a diverse workforce, and ensuring that domestic violence and sexual assault units are staffed with officers who are committed to thoroughly investigating cases and assisting victims.

The second chapter, "A Victim-Centered Approach," discusses strategies for how law enforcement agencies can support and empower victims of sexual assault and domestic violence. Agencies should have policies and practices that ensure victims are treated with respect and care and that victims retain some sense of control during the criminal justice process.

The third chapter, "Officer Training," provides strategies for training officers to conduct thorough investigations and to effectively engage with victims during each stage of the investigative process. According to many participants, some of the most successful training programs are those that educate officers on the underlying dynamics of sexual assault and domestic violence, incorporate cultural competency elements, and help officers recognize the impact trauma can have on victim behavior.

The fourth chapter, "Agency Policy," discusses the importance of having department policies that give clear, useful, and appropriate guidance to officers with respect to sexual assault and domestic violence response. For example, participants said that domestic violence response policies should clearly state how to define a predominant aggressor and how to operate under mandatory arrest laws. Participants also stressed that agencies should develop strong policies dictating how sexual assault forensic examination kits are processed and stored.

The fifth chapter, "Officer Accountability," examines strategies for ensuring that officers are held accountable for how they classify and investigate sexual assault and domestic violence cases. This section also discusses the issues that arise when an officer is identified as the perpetrator in a sexual assault or domestic violence incident and provides suggestions from participants on how to properly handle those cases.

A note on terms

Some roundtable participants in this publication use the term *survivor* rather than *victim* to refer to people who have experienced sexual assault or domestic violence. Although the use of survivor is not universal, many advocates use this term as a way to recognize the immense trauma associated with such experiences and to empower those who have experienced sexual assault and domestic violence as they recover. In fact, "some people feel they are survivors the moment they escape from the assailant(s). They may prefer the term survivor [after a sexual assault]."*

* "Module 1: Introductions and Overview," *Sexual Assault Advocate/Counselor Training*, Office for Victims of Crime Training and Technical Assistance Center, last modified January 16, 2016, https://www.ovcttac.gov/SAACT/module1.cfm.

8. The job titles listed throughout this document reflect officials' positions at the time of the August 4, 2015 roundtable discussion.

Vanita Gupta, Ronald L. Davis, and Bea Hanson introduce the roundtable discussion

The final chapter, "Resources and Partnerships," explores how law enforcement agencies can benefit by collaborating with prosecutors, local service providers, and community advocacy groups. These partnerships can provide assistance to resource-strapped departments and encourage higher reporting rates by demonstrating to victims that they will be treated well within the system. Participants outlined strategies for leveraging community resources and shared promising initiatives for creating a more supportive environment for victims.

Throughout this publication, policies and practices shared by participants are cited as potential strategies to improve the law enforcement response to sexual assault and domestic violence. These practices have produced favorable outcomes in many jurisdictions, but they are not a comprehensive or definitive list of recommendations. A great deal of work must be done in the coming years; this publication describes a number of high-priority areas in which to start.

Agency Culture

At the roundtable, participants stressed the importance of law enforcement executives establishing an overall culture within agencies that is supportive of victims of sexual assault and domestic violence and that rewards officers who effectively investigate such cases. Law enforcement executives set the policies and expectations by which an agency operates. Thus, participants consistently said that commitment from the top down is a prerequisite for an effective law enforcement response to sexual assault and domestic violence. Organizational culture also can be influenced by the informal attitudes and beliefs that are shared at all levels of an agency, particularly at the rank of first-line supervisors, who have extensive daily contact with officers.

Ronald L. Davis

In addition, participants discussed the need for creative, innovative recruiting initiatives to hire officers who are receptive to the needs of people who survive violent crimes.

Cultural leadership

Participants agreed that when law enforcement executives set high standards and hold themselves accountable to those standards, they demonstrate that inappropriate behavior among agency personnel is unacceptable. Such leadership can be established through a chief's own actions as well as the behaviors that the chief chooses to reward or penalize.

Patrick Callahan

"The chief always sets the tone," said Ronald L. Davis, director of the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office). "And if you want to find out the chief's priorities, look at the budget, look at the assignments and the reward systems. How a department is structured will tell you exactly what kind of behavior is incentivized."

"I've worked with a number of departments that were subject to lawsuits for their treatment of transgender people," said Patrick Callahan, public information officer for Transgender Community of Police and Sheriffs (TCOPS), a peer support network for transgender law enforcement officers.[9] "Along with instituting policies that are clear, concise, and enforced, you really need strong leadership from the top down. Executives need to establish that the 'good old boy network' is gone and that you just have to say no to some of the old-timers. If leadership is cracking jokes about race or LGBT people, that filters down."

Kimberly Lonsway

"Individual bias will operate where there is a vacuum of strong policy, leadership, and accountability," agreed Kimberly Lonsway, director of research with End Violence Against Women International. "Human beings know what organizations expect of them. There should be more of a focus on organizational culture and supervisory structure."

9. "About TCOPS /TCOPS International: The Organization," Transgender Community of Police and Sheriffs, accessed January 19, 2016, http://www.tcops-international.org/.

"Individual bias will operate where there is a vacuum of strong policy, leadership, and accountability."

— Kimberly Lonsway, Director of Research, End Violence Against Women International

Creating a positive institutional culture also falls on lower level supervisors, especially supervisors in dedicated units. "Having the right supervisor is the key to getting away from the 'close your case' mentality and making sure that investigators are invested in the work," said Sergeant Elizabeth Donegan of the Austin (Texas) Police Department. "Supervisors should really make investigators feel valued and respected for taking tough cases in order to set a cultural norm that Sex Crimes is a high priority unit."

Elizabeth Donegan

David Thomas, senior advisor to the U.S. Air Force Sexual Assault Prevention and Response Program, also noted the importance of motivating investigators. "If a new directive comes out and the sergeant is saying, 'All right guys, here's this new directive from up top, let's get this over with,' the officers are almost guaranteed not to take it seriously," said Thomas. "You have to have people who will go out of their way to make officers care."

Recruiting a diverse and committed staff

"We need to hire empathetic officers. Focus on recruiting and hiring people who don't need to be trained to care about others."

— Carol Adams, Sergeant, Richmond (Virginia) Police Department

David Thomas

Roundtable participants agreed that law enforcement agencies should be diverse and reflect the demographics of the communities they serve. This can help an agency to more effectively understand and address specific community problems that may vary widely across gender identity, sexual orientation, and race. Recruiting a diverse force begins with attracting a large and diverse pool of qualified applicants. "The best way to recruit diverse officers is to make sure that the agency actually has a welcoming atmosphere," said Mr. Callahan of TCOPS. "If people feel that they have the option for a healthy, accepting career, they will join. But they need to feel safe coming out and being who they are."

"Women are still underrepresented [in law enforcement], especially at the top levels."

— Darrel Stephens, Executive Director, Major Cities Chiefs Association

Darrel Stephens

Several law enforcement representatives noted the lack of women in law enforcement as a major challenge for agencies attempting to become more welcoming to victims of sexual assault and domestic violence. Darrel Stephens, executive director of the Major Cities Chiefs Association, suggests that agencies make sure recruiting standards are fair to all applicants and recruit from fields that traditionally have a large number of women, like social work and nursing.

Lieutenant Wendy Keelty-Reyes of the Oakland County (Michigan) Sheriff's Office also focused on the shortage of female officers. "In the old days, people thought there was more of a need for physical strength, but that's not really the case anymore," she said. "These days, police work isn't always the brawn and the fight that people prioritized in the past. We need more women in law enforcement agencies and in key positions."

Wendy Keelty-Reyes

In terms of assigning officers, a number of law enforcement representatives at the roundtable focused on how to select individuals who are best suited to work in a unit dedicated to handling sexual or domestic violence cases. Tom Tremblay, a retired chief of police from the Burlington (Vermont) Police Department who now provides consulting services to law enforcement agencies, recommends using the hiring process to test for biased attitudes. "Find out early on what their beliefs are," said Tremblay. "We talk about criminal history and petty offenses in hiring, but we should also be considering their views about gender, gender equality, culture, and their own potential biases. We need to design and implement questions that speak to those issues. Once an officer is hired, departments can reinforce their values with specific department policies that address prevention and early warning for police-perpetrated domestic violence and sexual misconduct. These efforts send a clear leadership message to new officers about expectations and accountability for these crimes."

Tom Tremblay

Norma Ayala Leong, deputy superintendent of the Boston Police Department, stressed the importance of first-line supervisor involvement in recruiting. "Supervisors of the sexual assault unit have to be able to handpick people for the unit," she said. "Not everyone can do that type of work, so supervisors should be given the authority to vet officers to get a sense of who is committed and will do a good job."

Norma Ayala Leong

Sergeant Donegan of the Austin Police Department noted the difficulty of the work, citing it as a reason for high turnover in dedicated units. "When hiring, I look for passion and open-mindedness," Donegan said. "Even if they don't understand the nuances of these types of cases right away, it is essential that they are open to learning more. Then, supervisors and directors have to value those people by giving them recognition and resources so they can maintain the energy to do this work."

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— Elizabeth Donegan, Sergeant, Austin (Texas) Police Department

An important point to be aware of in recruiting is a potential officer's personal history with sexual assault and domestic violence. In the United States, nearly one in five women (18.3 percent) has been raped, and about one in four women (24.3 percent) and one in seven men (13.8 percent) have experienced severe physical violence at the hands of an intimate partner.[10] With such offenses occurring at disturbingly high rates across the country, it is possible that hiring officials will encounter recruits who are victims. "Quite often, the people investigating these crimes have also suffered from them," said Carol Tracy, executive director of the Women's Law Project. "That's something we need to take into consideration, as well as how hard it is for anyone to constantly deal with these issues." Establishing staff commitment, diversity, and officer well-being in dedicated units should be priorities for all departments.

Carol Tracy

While hiring a diverse workforce is necessary, this promising practice is one of many that can help to ensure appropriate law enforcement response to sexual assault and domestic violence. "As a woman, I was put on nearly every rape or sexual assault case when I was starting out in the department, but that didn't improve any of the actual policies we had on sexual assault," said Chief Mary Gavin of the Falls Church (Virginia) Police Department. Gavin added that women are not immune from believing in stereotypes and misconceptions about sexual assault survivors, and they can often fall into following policy and established protocols.

Mary Gavin

Recommendations and promising practices

- Create an agency culture that values acceptance, rejects biased attitudes and behaviors, and takes sexual assault and domestic violence cases seriously. Positive agency culture can be promoted by ensuring that law enforcement executives and supervisors demonstrate strong leadership on these issues.
- Promote positive institutional culture by not tolerating inappropriate behavior and by rewarding investigators who perform well.
- Make it a priority to build a diverse police force that reflects the community with respect to gender identity, sexual orientation, race, and other demographics.
- Staff the specialized units that handle sexual assault and domestic violence with officers who are passionate, open-minded, and willing to learn more about the issues.

10. *National Intimate Partner and Sexual Violence Survey: 2010 Summary Report* (Atlanta, GA: National Center for Injury Prevention and Control, 2010), http://www.cdc.gov/violenceprevention/pdf/nisvs_executive_summary-a.pdf.

A Victim-Centered Approach

Roundtable participants discussed the importance of ensuring that victims of sexual assault and domestic violence feel comfortable approaching law enforcement personnel when reporting a crime or providing information about a case. Participants emphasized that the cooperation of victims is necessary in order to identify perpetrators, prevent future offenses, and link victims of violent crime to much-needed services.

Participants also discussed the challenges of making victims comfortable enough to come forward and how those challenges have historically resulted in low reporting rates for sexual assault and domestic violence. In 2013, the Bureau of Justice Statistics estimated that only 35 percent of victims of sexual assault reported the crime to law enforcement officers, which is lower than rates for other violent crime such as robbery, aggravated assault, and simple assault.[11] And only 57 percent of victims of domestic violence reported the crime to officers.[12] Many victims attribute the low reporting rate to negative interactions with law enforcement. A survey of sexual assault victims who reported the incident to officers found that 87 percent felt blamed for their assault after speaking with officers, while 69 percent encountered officers who discouraged making a report.[13]

To combat perceptions that officers are not helpful or don't trust victims, participants said that law enforcement agencies must demonstrate that they are safe to approach and that they will treat victims with respect. To aid these efforts, many participants shared strategies for taking a "victim-centered approach," which gives control over the process back to the victim. For example, some agencies have found that the use of victim advocates leads to better victim interactions with officers, while others have found success giving victims more options and control over the process.

"We've trained all of our employees in conducting trauma-informed sexual assault investigations. Our approach is victim-centered, where we also allow our advocate to be present if possible and where there is an open-ended timeline for the investigation. We want to allow victims to work with the police only as much as they are comfortable doing so."

— John Vinson, Chief of Police, University of Washington Police Department

11. Truman and Langton, "Table 6. Percent of Victimizations," 7 (see note 1). Other sources estimate that the reporting percentage may be even lower.
12. Ibid.
13. Campbell, "Research for the Real World" (see note 2).

Victim advocates

Fred Fletcher

Many law enforcement officials cited the use of victim advocates as a way to prioritize the needs of victims, to send a message to the community that agencies take victim well-being seriously, and thus to build trust with victims. As trained professionals whose primary responsibility is ensuring a victim's welfare, victim advocates can join interviews between victims and officers and provide the former with counseling and assistance. The use of victim advocates has also been correlated with better case outcomes for victims of domestic violence.[14]

The use of victim advocates has also been correlated with better case outcomes for victims of domestic violence.

Chief Fred Fletcher of the Chattanooga (Tennessee) Police Department pointed out that advocates can improve the efficacy of investigations. "Sometimes, advocates find out more about a case than the investigating officer does," said Fletcher.

Although victims should always have the option of not using an advocate, Sergeant Donegan of the Austin Police Department said that agencies should assign an advocate even if the victim does not specifically request one because victims often believe they are overburdening others by asking for help. A victim's first interaction with officers often has an impact on whether the person feels comfortable being involved in the criminal justice process, so early involvement by a victim advocate is important.[15]

"Victim advocates need to be involved as quickly as possible."

— Elizabeth Donegan, Sergeant, Austin (Texas) Police Department.

Sergeant Donegan also stressed the importance of ensuring stability and consistency by pairing a victim with the same advocate throughout the criminal justice process. Chief Gavin of the Falls Church Police Department agreed, highlighting victim advocate consistency as a particularly important factor in domestic violence cases. "Victim advocates are a necessity," said Gavin. "Survivors need to feel comfortable as they report and during the court process so that they don't return to their aggressors."

In addition, it is important that the selected advocate can relate to the victim's specific experience. "Make sure that advocates are tailored to the specific needs of victims," advised Mr. Callahan of TCOPS. "If you have a transgender woman survivor, you really need to

14. Christina M. Camacho and Leanne Fiftal Alarid, "The Significance of the Victim Advocate for Domestic Violence Victims in Municipal Court," *Violence and Victims* 23, no. 3 (2008): 288–300, http://www.ncbi.nlm.nih.gov/pubmed/18624095.
15. Debra Patterson and Brenda Tringali, "Understanding How Advocates Can Affect Sexual Assault Victim Engagement in the Criminal Justice Process," *Journal of Interpersonal Violence* 30, no. 12 (2015): 1987–1997, http://www.ncbi.nlm.nih.gov/pubmed/25287406.

have a transgender woman advocate," he said. When advocates can relate to victims and provide support while they navigate the process, victims are more likely to remain engaged and experience positive interactions with officers.[16]

Giving victims more options and control during the criminal justice process

After experiencing sexual violence and having one's bodily autonomy violated, victims often report losing a sense of control.[17] A significant element of the healing process for many victims involves regaining a sense of control in all aspects of life, especially for matters pertaining to the assault. This is particularly relevant for how law enforcement interacts with victims in sexual assault cases, because a significant number of victims, who believe they will not be taken seriously or will not be in control of what happens after they report the assault, do not make a formal report.[18]

Aviva Kurash

Participants explored strategies for ensuring victims can maintain a sense of control during the various stages of the criminal justice process, for example, by empowering victims to decide the degree of their involvement in the process—from reporting to prosecution. Another strategy included treating victims with respect and taking them seriously, regardless of what ultimately happens with the case. "Think carefully about what justice looks like for individual survivors," said Aviva Kurash, senior program manager at the International Association of Chiefs of Police (IACP). "When a prosecutor decides not to move forward on the case, or if the case doesn't make it to prosecution for some reason, or if the survivor decides she doesn't want it going through the system, the officer can still be there to provide support. Many survivors are better able to heal simply because they are respected and believed by an officer," she said.

Giving victims options and control can encourage higher rates of reporting and make victims feel more comfortable giving information to law enforcement. This can help officers to investigate the case at hand and to identify potential serial predators and prevent future incidents. (For examples of ways in which victims can be given control, see the following sidebar, "The 'You Have Options' Program.")

16. Rebecca Campbell, "Rape Survivors' Experiences with the Legal and Medical Systems," *Violence Against Women* 12, no. 1 (2006): 30–45, http://vaw.sagepub.com/content/12/1/30.abstract.
17. "Put the Focus on Victims," *Sexual Assault Response Team Toolkit*, Office for Victims of Crime, accessed January 2016, http://ovc.ncjrs.gov/sartkit/focus/understand-print.html.
18. Christopher P. Krebs, Christine H. Lindquist, Tara D. Warner, et al., *The Campus Sexual Assault (CSA) Study: Final Report* (Washington, DC: National Institute of Justice, 2007), https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf.

The "You Have Options" Program

Improving Reporting and Engagement by Giving Victims Control

Detective Carrie Hull from the Ashland (Oregon) Police Department has witnessed firsthand how taking a victim-centered approach can have a positive impact when investigating crimes and preventing future sexual violence cases. In late 2009 and early 2010, the Ashland Police Department suddenly received multiple reports of sexual assaults by strangers within a short period of time. However, the investigators found that the victims tended to either withhold information that would identify the offender or provide false information about how the assault had occurred; in each of these cases, the investigators still believed an assault had occurred, just not exactly in the manner reported.

Taking a hard look at policies and procedures, the Ashland Police Department realized that the lack of accurate information provided by the victims during the investigations was an indication of the victims' mistrust of the legal system. In other words, traditional methods of investigating sexual assaults were actually contributing to an environment that kept victims from feeling safe enough to report the details of their victimization as they were able to remember them. Some victims were reporting incomplete or inaccurate information because they were concerned about not being believed or not being able to remember details of the event.

This realization led the Ashland Police Department to launch the "You Have Options" program,* which focuses on improving two fundamental elements in the law enforcement response to sexual violence: increasing the number of victims who report their assaults and thoroughly investigating identified offenders to determine if they are serial offenders. "The key is giving survivors options for how they report sexual assault and a feeling of control over the process, because justice is not the same for everyone," said Hull.

After soliciting feedback from sexual violence victims to determine what they needed most from law enforcement, the Ashland Police Department developed 20 core elements for implementing a victim-centered and offender-focused response to sexual violence:

1. A victim of sexual assault is offered three options for reporting: information only, partial investigation, and complete investigation.
2. A victim or other reporting party may remain anonymous and still have the information they provide documented by a law enforcement agency.
3. A victim or other reporting party may have questions answered regarding their options for reporting and/or a criminal investigation prior to providing any identifying or incident information to law enforcement.
4. A clear explanation of the reporting process and/or investigative procedures will be provided by a law enforcement officer if requested by the victim.

Carrie Hull

5. When making a report, there is no requirement to meet with a law enforcement officer in person. For example, a victim or other reporting party may report using an online form, or a victim may choose to have a sexual assault advocate report on their behalf.
6. Reasonable efforts will be made to allow the victim or other reporting party control over the location, time, and date where their initial report is made to law enforcement.
7. A victim or other reporting party may provide as much, or as little, information as they choose with no time limitations or restrictions on when the information is given to law enforcement. For example, information obtained on an incident outside the current statute of limitations will be documented and used as the law allows to assist in other investigations.
8. Law enforcement officers will offer every person reporting assistance in locating sexual assault advocacy services.
9. A victim may be accompanied by a sexual assault advocate or other appropriate support person during all phases of the reporting process and criminal investigation.
10. A victim or other reporting party may end an interview with law enforcement at any time without having to provide a reason.

11. After making a report, a victim or other reporting party will not be pressured to participate in a criminal investigation.
12. Reasonable efforts will be made to meet the needs of the victim and address any barriers the victim faces in providing information to law enforcement during the reporting process.
13. Law enforcement officers will conduct victim interviews in a trauma-informed manner.
14. Reasonable efforts will be made to meet the needs of the victim and address any barriers the victim faces in providing information to law enforcement during the investigation.
15. A victim's right to keep their assault confidential will be respected. If legally permissible, no person (outside of a law enforcement agency) will be notified the victim has reported without the victim's consent. This includes the interviewing of identified witnesses and perpetrators.
16. Investigators will use strategies to identify and document serial sexual perpetration, such as the Inquiry into Serial Sexual Assault (ISSA).
17. Investigators will collaborate with victims during the investigative process and respect a victim's right to request certain investigative steps not be conducted. Criminal investigations will be conducted at a pace set by the victim, not the law enforcement officer. Victims will be informed that no case can proceed to arrest or referral to an office of prosecution until the investigative process is complete.
18. A victim may disengage from a criminal investigation at any time prior to an arrest being made or the case being referred to an office of prosecution. There is no requirement that an explanation be given by the victim to law enforcement.
19. If legally permissible and probable cause exists for a crime, no arrest or referral to an office of prosecution will occur without the consent of the victim. All You Have Options Law Enforcement Agencies respect the choice of every victim who reports a sexual assault and understand that justice is not the same for every person who is victimized.
20. Criminal investigations that do not result in arrest or referral to an office of prosecution will be classified as inactive unless found baseless or false, allowing for the investigation to be reopened in the future at a victim's request and/or if additional information is discovered. †

Following the implementation of the You Have Options Program, the Ashland Police Department saw sexual assault reporting increase by more than 100 percent. Detective Hull also noted that the department was able to obtain leads about serial sexual predators because the new reporting process helped victims to feel more comfortable sharing information. To Detective Hull, however, the most important benefit of the program is that it can help victims to obtain access to services and care to which they may not otherwise have been exposed.

Following the implementation of the You Have Options Program, the Ashland Police Department saw sexual assault reporting increase by more than 100 percent.

Law enforcement agencies interested in participating in the You Have Options Program begin by attending a train-the-trainer introductory session in Ashland, Oregon. Agencies then sign a letter of intent that begins technical assistance directly with You Have Options Program staff during the multiphase implementation process. The You Have Options Program requires a high level of commitment and accountability to be certified. Law enforcement agencies have a great deal to be proud of after completing the implementation process.

"The success of our program is largely measured by whether or not survivors regret reporting," said Hull. "If they don't regret coming forward, then we know that we have helped that survivor achieve a personal sense of justice along with providing law enforcement with access to information they otherwise would not have had."

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* More information about the You Have Options Program is available via its website, http://www.reportingoptions.org/.

† "20 Elements of a Victim-Centered and Offender-Focused You Have Options Program Law Enforcement Response," You Have Options Program, accessed January 19, 2016, http://www.reportingoptions.org/#!20-elements/c1jxv.

Recommendations and promising practices

- Assign advocates to all survivors. Advocates can be employed in-house or through partnerships with outside organizations.
- Encourage victims to have the support of a victim advocate during the criminal investigation to promote trust with the law enforcement officers and to help victims feel more comfortable participating in the criminal justice process and invoking their rights as crime victims.
- Strive to match victims with advocates who can relate to the victim's life experiences and background.
- Make victims aware that they are in control over the extent of their involvement in the criminal justice process, and empower victims to participate on their own terms and in a manner that vindicates their rights, allows their voices to be heard, and appropriately balances their individual rights to privacy, security, dignity, and self-determination with the public interest in prosecuting perpetrators.

Officer Training

"Training should give everyone a basic grounding in the issues and encourage people to think outside of their traditional roles."

— Sherene Crawford, Senior Policy Advisor, National Network for Safe Communities

One key to improving law enforcement's response to sexual assault and domestic violence is to equip officers with the tools and knowledge they need to navigate the complexities involved in these types of cases. Law enforcement executives, advocates, and other experts shared examples of training programs and curricula that they have found to be promising for understanding and investigating sexual assault and domestic violence cases. These examples included training on bias and cultural awareness, the dynamics of sexual assault and domestic violence, and how to engage with victims through trauma-informed interviewing. "Training should give everyone a basic grounding in the issues and encourage people to think outside of their traditional roles," said Sherene Crawford, senior policy advisor with the National Network for Safe Communities.

Sherene Crawford

Bias and cultural awareness training

"Invite survivors to come in and talk about their experiences with recruits to help them understand that survivors come in all shapes and sizes."

— Norma Ayala Leong, Deputy Superintendent, Boston Police Department

Although victims of sexual assault and domestic violence come from diverse backgrounds and identities, many preconceived notions persist about what a typical victim *should* look like. Participants stressed that bias and cultural awareness training can help officers to understand that victims can have diverse backgrounds and to stop marginalizing, even unintentionally, those who do not fit into stereotypical narratives of victimhood.

According to many advocates and law enforcement officials, a significant part of bias and cultural awareness training involves presenting officers with information about marginalized communities to which they may not have been previously exposed. "People don't know what they don't know," said Major Sabrina Tapp-Harper of the Baltimore City Sheriff's Office. "I think that in most situations, people just aren't educated. They're not actively trying to hurt anyone."

Sabrina Tapp-Harper

Participants highlighted specific training topics to bridge gaps in knowledge, such as the role that unintentional bias can play when officers approach a case of sexual assault or domestic violence. "It is important to educate officers on how being in a male-dominated profession can impact how they view sexual assault and domestic violence and to counter the myths about violence against women that result from being in a male-dominated

culture," noted Mr. Tremblay, a law enforcement consultant and retired chief of police. "At many training sessions, I ask participants to write down the percentage of rapes they think are false reports. Many estimate that 50 to 70 percent are false reports, and they're very surprised to hear that research, and my experience, shows it is only 2 to 8 percent—no higher than any other crime," said Tremblay.

Participants emphasized that training designed to counter bias should comprehensively address the many different forms that bias can take. Andrea Ritchie, senior policy counsel for Streetwise and Safe,[19] an organization for LGBT youth of color, emphasized the role of race, gender identity, sexual orientation, and actual or perceived involvement in sex work in unintentional bias. "We need to have some basic facts on the table to address where bias comes into play," she said. "For example, we need to state outright that there is no question that a person involved in the sex trades can experience sexual assault—the two are not mutually exclusive. And, in fact, people in the sex trades experience high rates of sexual assault, and they are entitled to a respectful, supportive, survivor-centered, and effective response." Ritchie also said that it is important to consider the racial aspects of unintentional bias. "Two hundred years ago, the rape of black women wasn't considered a crime under the law, and this reality informs perceptions of black women victims of sexual assault to this day." In addition, Ritchie brought up the importance of officers having a basic understanding of gender identity issues so they do not misidentify the gender of victims who report to officers and respectfully and effectively respond to violence against transgender people.

Andrea Ritchie

Bias can also appear in other areas of the criminal justice system. Monika Johnson-Hostler, president of the National Alliance to End Sexual Violence, noted that victims may experience bias later in the court system and that officers should be aware of this. "Survivors may be 'less than ideal' for prosecutors due to use of drugs or alcohol or other aspects of their personal history," she said. "Officers need to ensure that victims and their cases get equal treatment [during the initial report and subsequent investigation of sexual assault cases], regardless of how they think juries will handle the case later down the line."

Monika Johnson-Hostler

"Ideally, cultural awareness and bias training should be conducted by people who have actually experienced bias—for example, law enforcement personnel who are LGBTQ. This type of training cannot be done by a 20-minute online video, and it cannot be done people who do not have the necessary cultural competency themselves. Incorporate role-playing, allow for honest questions, and engage with people in the community."

— Patrick Callahan, Public Information Officer, Transgender Community of Police and Sheriffs

19. "Streetwise and Safe," http://streetwiseandsafe.org/.

Many law enforcement officials at the roundtable promoted the use of community-led bias training, noting the positive impact it has had on police-community interactions. "We had community members come in and conduct scenario-based training where officers were getting involved," said Major Tapp-Harper of the Baltimore City Sheriff's Office. "The community members let the officers know what types of comments can be offensive or harmful to people, which was really helpful. They got along with us so well that they even gave us information on criminal activity months later that we wouldn't have known about otherwise."

Likewise, the importance of interactive training components was noted as a promising practice by Hermina Kramp, deputy executive director of the Michigan Commission on Law Enforcement Standards. "We need to have interactive training," said Kramp in terms of helping officers to address any issues or biases they bring to their job. "It's the most effective way to engage with uncomfortable subjects." Participants agreed that interactive training led by people who have personally experienced bias is a useful way to help officers understand how bias operates.

Hermina Kramp

Training on the factors that contribute to and constitute these offenses

"There are so many mixed messages and myths out there. It's important for us to get the language right and speak accurately about these crimes so that officers really know what they are. Officers need training on what constitutes consent for sexual assault cases and the impact of such offenses on the victim so they know what they're looking for in the first place."

— Tom Tremblay, Retired Chief of Police, Burlington (Vermont) Police Department

In addition to the need for training on bias and on societal stereotypes about victims, training should be provided to address the factors that contribute to and constitute sexual assault and domestic violence offenses. Participants noted that training should go beyond a basic understanding of existing law and provide a more thorough look at how and why offenses take place.

For example, many participants highlighted the need to train officers on the multiple forms of sexual assault and domestic violence and the contributing factors involved in these types of cases. Chief Sue Riseling of the University of Wisconsin-Madison Police Department said that officers need to understand that domestic violence can come in many different forms, including psychological abuse. She noted that it is especially important for officers to realize that domestic abuse may not always involve physical violence and that other types of behavior—using finances or isolation to control a partner or manipulating a

partner's loved ones—are also elements of the pattern of domestic abuse. Riseling emphasized that only after officers have this basic awareness can training progress to new areas, such as how to conduct a safety plan and gather evidence.

Tom Manger

"We cover domestic violence in all of its forms—from abusive power dynamics, economic abuse, psychological abuse, isolation, manipulation of children and pets. Everything comes into play."

— Sue Riseling, Chief of Police, University of Wisconsin-Madison Police Department

Chief Tom Manger of the Montgomery County (Maryland) Police Department takes a similar approach to training. "We start out by training officers on the dynamics of domestic violence, contributing factors, and how it manifests," he said. "Then we can approach how to de-escalate volatile situations, make referrals for follow-up, and use a lethality assessment tool."

Participants also said that it is necessary to train officers on how to identify typical offender behavior so that they can more effectively recognize and apprehend suspects. For example, several law enforcement officials noted the importance of training officers to identify a predominant aggressor in domestic violence cases to ensure victims are not mistakenly classified as perpetrators. "Police may think they understand who the offenders are, but these are some of the most manipulative offenders in the criminal justice system," said Mr. Tremblay, a law enforcement consultant and a retired chief of police. "We need to provide officers more training on offender course of conduct and behavior because it isn't always obvious," he said, adding that such training is necessary both for identifying predominant aggressors in domestic violence cases as well as perpetrators of sexual assault. "This training should emphasize that our investigative efforts must focus on offender behaviors and course of conduct and not on the victim."

"You need to prioritize in-service training. You can't ignore the veteran officers just because they're harder to train."

— Carol Adams, Sergeant, Richmond (Virginia) Police Department

Participants also stressed that while a basic understanding of sexual assault and domestic violence factors is necessary for training new recruits, law enforcement agencies should also provide in-service training for veteran officers. Ongoing training can help ensure officers have the most current information regarding existing research and the changing dynamics of sexual assault and domestic violence offenses. In-service training can also remind veteran officers of the importance of aggressively investigating these types of cases. "Training should really concentrate on [officers already] in service, because that's when some officers become cynical," said Major Tapp-Harper of the Baltimore City Sheriff's Office.

Trauma-informed interview training

"Trauma-based interviewing techniques are critical for investigators. Trauma can look like deception if you haven't had the training to recognize it. Investigators need to be aware of how trauma affects memory and then take straightforward victim reports rather than adding their own perspectives."

— Wendy Keelty-Reyes, Lieutenant, Oakland County (Michigan) Sheriff's Office

Trauma, which is ubiquitous in cases of sexual assault and domestic violence, has been demonstrated to have profound effects on victims, including fragmented memory and other difficulties in memory recall.[20] This understanding has important implications for officers investigating cases and interviewing victims. For example, roundtable participants said that officers who misinterpret poor memory recall as an indicator of dishonesty may alienate victims and that officers who conduct interviews as if they were interrogations are less likely to obtain useful information.

Thus, many law enforcement executives and victim advocates at the roundtable recommended that detectives who handle sexual assault and domestic violence cases receive special training on how to effectively conduct interviews with victims who may be experiencing trauma. A basic version of this training may also be useful for first responders. "First responders make or break a case," said Ms. Kurash at IACP. "They need to know how trauma affects a person's reaction. If the first responders don't handle victims with sensitivity, you lose them."

"Cops are more likely to listen when it comes from other cops."

— Elizabeth Donegan, Sergeant, Austin (Texas) Police Department

Victim advocates and law enforcement officials discussed various ways to make officers receptive to such training and how to maximize its effectiveness. Ms. Kramp of the Michigan Commission on Law Enforcement Standards recommended enlisting current and former officers as well as advocates properly trained in facilitating training and in teaching teams of officers. "When training veteran officers," she advised, "give them a chance to vent in an honest and safe way. That helps them overcome any subtext of implied criticism or the feeling that they are being lectured."

Sergeant Donegan of the Austin Police Department agreed that, when possible, officers should be training other officers. "We need knowledgeable cops going to other agencies and demonstrating how to work alongside community advocates," she said.

20. A. Hardy, K. Young, and E.A. Holmes, "Does Trauma Memory Play a Role in the Experience of Reporting Sexual Assault during Police Interviews? An Exploratory Study," *Memory* 17, no. 8 (2009): 783–8, http://www.ncbi.nlm.nih.gov/pubmed/19657963.

Sergeant Donegan highlighted another best practice when it comes to training: relating the trauma victims experience to the trauma officers experience on the job. "Use officer-involved shootings as an example of when trauma affects memory," she advised. "We would show cases where officers involved in shootings said things about the shootings that didn't make sense or didn't line up with the facts. We would ask cops if they thought the officer was lying, and they would shout no and talk about how much stress they were under. And we would say, 'Stress is exactly what a survivor of sexual assault is going through,' and relate it back to something they understand."

Mr. Davis of the COPS Office also recommended the use of job-related examples. "Make it hit home," said Davis. "Think about the 48-hour rule for officer-involved shootings.[21] You're okay with the fact that I can't talk to you for 48 hours after a shooting, but you think a rape victim at two o'clock in the morning has to be completely consistent and coherent with their story? You just have to show it applies to the officers."

"We need to provide trauma-informed training for our officers so that the impacts of victim trauma will not be misinterpreted by officers."

— Tom Tremblay, Retired Chief of Police, Burlington (Vermont) Police Department

Many participants testified to the success of such training initiatives and the positive feedback they have received from officers. "Many officers will come into trauma-informed interviewing training with their arms folded in skepticism, then come out saying, 'Wow, how many people have I alienated?' They may not have even been aware of how poorly they were relating to survivors during interviews," said Lieutenant Keelty-Reyes of the Oakland County Sheriff's Office. Because alienation can lead victims to not file a formal report, participants agreed that providing trauma-informed interviewing training to officers is critical for victims to feel welcome in law enforcement agencies.

"When we train on trauma, many investigators tell us afterward how happy they are to have learned about this and that they now think about the issue completely differently than they used to," said Ms. Kurash at IACP. "I think that stems in large part from the training format. Training must include discussions about underlying ideas and culture that influence societal and criminal justice beliefs and attitudes."

An understanding of trauma may also have a positive effect on case outcomes, according to Mr. Thomas of the U.S. Air Force Sexual Assault Prevention and Response Program. "Training on trauma is a great way to get officers to write reports that incorporate the survivor's own words," he said. "Direct quotes are crucial for testimony later on, when the investigator is getting grilled on the stand."

21. In some police agencies, collective bargaining agreements or other arrangements allow officers to wait 48 hours before they answer questions about a shooting or other serious incidents.

Recommendations and promising practices

- Conduct training to address biases, including unintentional biases, that may exist in sexual assault and domestic violence cases. Training should include information about the diverse backgrounds of victims and perpetrators to help counter any pre-existing notions officers may have about what victims and perpetrators should look like.
- Include a cultural awareness component in training to expose officers to marginalized communities with which they may otherwise be unfamiliar.
- Offer training that is conducted by current or retired law enforcement personnel, as officers may be more receptive to learning from their peers. Consider bringing victims from the community to share their experiences, as they can offer a personal perspective and can help demonstrate that victims come from a variety of backgrounds.
- Use interactive training methods, such as group discussions and scenario-based training.
- Conduct frequent in-service training updates reflecting changes in research, policy, and law.
- Conduct training on the dynamics of sexual assault and domestic violence, including the relevant laws associated with these offenses. Training should also discuss the factors that contribute to these offenses, present information about various types of domestic abuse, and explore the relationships between victims and perpetrators.
- Officers should receive training on indicators of perpetrator behavior and how to identify the predominant aggressor.
- Conduct training on how trauma can impact a victim's memory and behavior, and how to effectively interview victims who have experienced trauma. Trauma-informed interviewing training should be required for first responders and detectives in units dedicated to sexual assault and domestic violence cases.

Agency Policy

In order to improve the law enforcement response to sexual assault and domestic violence, it is critical that law enforcement agencies implement clear policies that state how officers should investigate cases and deliver services to victims. For example, for investigating domestic violence cases, law enforcement executives and victim advocates said clear policies are needed particularly for establishing arrest decision-making criteria. Without careful policy, agencies must rely entirely on the initiative of individual officers, which can be easily lost when a good officer retires or transfers to a different agency. Participants also shared promising policies and programs aimed at holding offenders accountable and preventing them from reoffending. Last, participants emphasized the importance of establishing policies that ensure officers appropriately process and follow up on sexual assault forensic evidence kits.

Domestic violence policy

During the roundtable, several law enforcement representatives discussed the problem of dual arrests, which occur when officers arrest multiple suspects during domestic violence calls. Many participants stated that dual arrests should be avoided because they result in the victim being arrested along with the perpetrator and they could result in any children being separated from the victim. Participants also noted that dual arrests should virtually never occur if an officer is properly assessing the situation. "We discourage dual arrests. Officers need to take the time to figure out what happened and not just arrest everyone because it's easier," said Sergeant Carol Adams of the Richmond (Virginia) Police Department.

Carol Adams

"We discourage dual arrests. Officers need to take the time to figure out what happened and not just arrest everyone because it's easier."

— Carol Adams, Sergeant, Richmond (Virginia) Police Department

Mr. Thomas of the U.S. Air Force Sexual Assault Prevention and Response Program also stressed that officers responding to domestic violence calls need to examine the context of the situation and identify a predominant aggressor. "With dual arrests, the most likely outcome is that the prosecutor drops both cases, essentially teaching the victim never to call police again," said Thomas. Thus, a number of participants said that officers must be equipped to consider the totality of the circumstances in making an arrest, which is why training officers on how to identify the characteristics of the predominant aggressor is so important (see the chapter "Officer Training" on page 15).

"With dual arrests, the most likely outcome is that the prosecutor drops both cases, essentially teaching the victim never to call police again."

— David Thomas, Senior Advisor, Sexual Assault Prevention and Response Program, U.S. Air Force

"We have to have real conversations about how to define a predominant aggressor and how patrol officers can make that designation," said Major Irene Burks of the Prince George's County (Maryland) Police Department. "There needs to be a robust discussion of this in any training program, because if you arrest the wrong person in a domestic, you've just labeled a survivor as a perpetrator." Such treatment does not foster trust between the victim and law enforcement.

Irene Burks

Mr. Thomas added, "A predominant aggressor determination translates into placing everything into context and bringing everything into focus. This includes knowing what to look for and what to listen for with respect to intimate partner violence crimes."

Offender accountability

"The system is lacking when it comes to offender supervision. Supervision needs to be based on the offender, not just a minimum, standard approach for everyone."

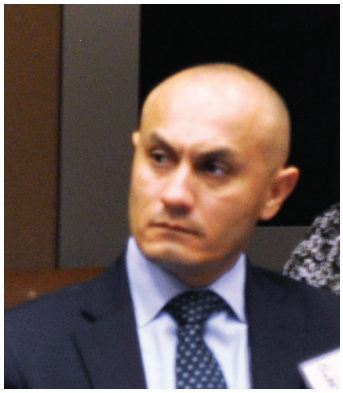
— Jim Henderson, Technical Assistance Provider, Battered Women's Justice Project

As much as agencies should focus on ensuring that victims are comfortable approaching officers and that victims receive the services they need, law enforcement agencies, prosecutors, and the judicial system must also bring perpetrators to justice and work to prevent future offenses. For domestic violence offenses, recidivism is a major concern.

Jim Henderson

Participants discussed promising policies and programs for holding offenders accountable and preventing reoffending. Jim Henderson, technical assistance provider for the Battered Women's Justice Project, recommended involving probation agencies prior to sentencing. "Sometimes prosecutors make the sentencing recommendations, and probation is expected to supervise," he said. "Survivors would be better served if probation could do a presentence investigation, because probation knows the offender population better."

Law enforcement officials also discussed the importance of collaboration in units dedicated to handling sexual assault and domestic violence and continued law enforcement involvement in offender supervision. "A deputy district attorney who works with us on vertical prosecution of offenders is housed within the police department," said Lieutenant Albert Walle of the Richmond (California) Police Department. "Our detectives also work with the courts on supervising offenders [who] are on community supervision."


Albert Walle

"I'm currently working on a project going through all of the offenders in our county, looking at different variables related to demographic characteristics, the use of drugs or alcohol in assaults, and other factors," said Sergeant Donegan of the Austin Police Department. "This is crucial to determining how many crimes some of the offenders commit and whether or not we are holding them accountable for each of their offenses."

The High Point (North Carolina) Police Department's Domestic Violence Initiative

Taking Responsibility for Domestic Violence by Holding Offenders Accountable

Like many law enforcement agencies, the High Point Police Department struggled with high recidivism with regard to domestic violence. The department decided to take a new approach. "We looked at how we were handling domestic violence cases, and we knew that we could do better," said Major Larry Casterline, the department's assistant chief of police. "We started by taking extra time to stop and talk to community members, specifically targeting communities where violence was occurring. We admitted that we were embarrassed at the way we'd been handling domestic violence and recognized that we may have actually made the situation worse despite our best intentions."

After explicitly taking responsibility for the issue and establishing ties with community members, Major Casterline and other High Point officials set out to form a collaborative response to domestic violence. This resulted in the creation of the Domestic Violence Initiative, a partnership between the High Point Police Department and researchers from the National Network for Safe Communities. The initiative takes an offender-focused approach that emphasizes holding offenders accountable through focused deterrence strategies.

Larry Casterline

The first steps were to determine typical offender characteristics and develop deterrence strategies, which the department accomplished by hosting biweekly meetings with local service providers and working with researchers. "We created different categories for offenders based on our research findings, according to how big a threat they were to the community," said Major Casterline. "We implemented different protocols for each offender level, training for patrol on how to identity a level for each offender, and training on how to effectively conduct offender notification through specific messaging."

Offenders are identified and categorized by High Point police officials based on the quantity and severity of violent offenses on their records. Offenders are then tracked collaboratively by police, probation officers, and prosecutors. Offenders are notified that they are being monitored and are explicitly warned of the consequences of further offending through personalized notification letters, which are designed to let offenders know that there will be swift and certain consequences if they reoffend. The offenders deemed most dangerous based on the totality of the circumstances are prioritized for immediate prosecution.

After implementation of the program, during which more than 1,000 notifications were sent to offenders, homicides associated with domestic violence dropped to zero, and the department received fewer calls for service. "We reduced domestic violence calls for service by more than 300 each year," said Major Casterline.

High Point's Domestic Violence Initiative can serve as a model for other jurisdictions that are struggling with high recidivism rates in domestic violence cases. "Our experience shows how much progress can be made by holding offenders accountable through focused deterrence," said Major Casterline. "It also demonstrates the importance of collaboration and how much can be accomplished when police work with researchers, members of the community, and others in the criminal justice system to tackle these issues."

Sexual assault forensic evidence kit testing

"Untested rape kits represent a much larger problem than just boxes on shelves. They are a symptom of the larger problem that sexual assaults are not investigated thoroughly."

— Kimberly Lonsway, Director of Research, End Violence Against Women International

Evidence collection for sexual assault cases presents multiple challenges for law enforcement. Many victims do not approach officers until after it is no longer possible to collect forensic evidence. Other victims find the collection process itself invasive and a source of trauma so soon after an assault.[22] Many roundtable participants said that victims who submit to sexual assault forensic examinations may also find that the evidence kits are not processed by law enforcement, creating negative impressions of officers and damaging victims' trust in the justice system.

Law enforcement officials and victim advocates recommended that police departments and sheriffs' offices have strong policies that ensure sexual assault evidence kits are properly tested and used. Informing victims of these established policies can help encourage victims to permit the collection of forensic evidence. Roundtable participants noted that this policy is important not only for producing evidence to win cases but also for showing victims respect.

Kym Worthy

Properly processing evidence kits can help improve the law enforcement response to sexual assault. For example, in 2009 the Wayne County Prosecutor's Office in the state of Michigan discovered 11,341 untested sexual assault evidence kits in a Detroit Police Department storage facility. Upon this discovery, Kym Worthy, the Wayne County prosecutor, immediately organized a coordinated campaign to eliminate the backlog of untested kits and to ensure the same problem did not occur in the future.

The State of Michigan did not have the available resources to test the backlog of kits, so Ms. Worthy's office sought funding from the U.S. Department of Justice's Office on Violence Against Women. Together, they launched "Project 400" to process 400 randomly selected, untested kits. "We had two mandates: to look at the way sexual assault victims are treated and to develop a national blueprint for how agencies can address backlogs such as ours," said Worthy.

Of the 11,341 untested kits, 10,000 have now been processed with additional funding from the National Institute of Justice. "Through testing the backlog of kits, we have so far identified 469 serial rapists with prior offenses in 39 states," said Ms. Worthy. To ensure that a similar backlog does not occur in the future, Worthy worked to pass Michigan state legislation that requires law enforcement agencies to submit sexual assault evidence kits to labs for testing within 14 days and negotiated lower fees for kit processing at labs.

22. Shana L. Maier, "'I Have Heard Horrible Stories . . .' Rape Victim Advocates' Perceptions of the Revictimization of Rape Victims by the Police and Medical System," *Violence Against Women* 14, no. 7 (2008): 786–808, http://vaw.sagepub.com/content/14/7/786.short.

"Through testing the backlog of kits, we have so far identified 469 serial rapists with prior offenses in 39 states."

— Kym Worthy, Prosecutor, Wayne County Prosecutor's Office, Michigan

Ms. Worthy said that one strategy for ensuring kits are properly processed is to implement an effective system for tracking the progress of kits through the criminal justice system. To accomplish this in Wayne County, the prosecutor's office worked with Quicken Loans, with whom it had a prior relationship, to partner with UPS and implement a comprehensive electronic tracking system for sexual assault kits. "We wanted to be able to track these kits like you track a package that you've ordered online," said Worthy. "If you can track a package from Amazon, why not a sexual assault kit? We knew this technology already existed, so rather than reinventing the wheel, we went to a company that tracks things for a living."

UPS worked with the Wayne County Prosecutor's Office, the Detroit Police Department, local crime labs, and other stakeholders to develop the tools and training necessary for implementing the tracking system. UPS trained representatives from these various agencies on how to use scanners and track the kits in a database so the kits are accounted for at every stage of the process. UPS offered its services pro bono during the pilot phase. Ms. Worthy said that the State hopes to eventually give victims the ability to track their own kits and that Michigan officials are exploring ways to implement a statewide tracking system. "In the end, the victims are the ones who win when you implement programs like electronic systems," she said.

"The evidence in these kits has value beyond the original case. Research shows that serial rapists offend on average 11 times each. And from just one of our hits, we were able to prosecute seven rapes committed by a single offender. This shows how testing even one kit can have wide-reaching consequences."

— Kym Worthy, Prosecutor, Wayne County Prosecutor's Office, Michigan

"We test all kits, even if they were collected in cases for which the statute of limitations has already run out," said Ms. Worthy. "Most states allow you to use this evidence in other cases for charges not related to the original offense. And even if you think you know who the suspect is, you still should test the kits to make sure—the test might exonerate someone who has already been prosecuted," she said.

With an estimated 400,000 untested sexual assault evidence kits across the country, Ms. Worthy advocates for immediate testing and collaboration between law enforcement agencies. "The DNA information that is collected through testing these kits can be used to populate national databases, which can help prosecute offenders in other jurisdictions," she said. "There is no excuse not to test all kits and make this a priority."

Recommendations and promising practices

- Enact clear and consistent policies that give officers guidance for properly investigating sexual assault and domestic violence cases.
- Enact policies that discourage officers from making dual arrests when responding to domestic violence calls.
- Accompany policies with training on how to avoid dual arrests and how to identify a predominant aggressor. Agencies should closely evaluate the effects of such policies and training programs over time.
- Enact policies that focus on holding offenders accountable through targeted deterrence strategies. One promising strategy is to track domestic violence offenders and to actively notify them of the consequences of reoffending. These programs can be more effective when they involve partnerships between a law enforcement agency and others within the criminal justice system, such as probation offices and prosecutors.
- Implement policies that require the proper and timely storage and processing of all sexual assault forensic evidence kits, and emphasize how kits can provide evidence for multiple cases and assist other victims.
- Treat victims with trust and respect so they feel comfortable submitting to sexual assault forensic evidence examinations.

Officer Accountability

Roundtable participants said that a key to improving the response to sexual assault and domestic violence is holding officers accountable for how they handle these types of cases. Agency policy must set high standards for how officers classify and investigate these offenses and must include clear consequences for when officers inadvertently or deliberately do not perform to these standards.

Law enforcement officials and advocates stressed that officer accountability begins at the top. Law enforcement executives and first-line supervisors must establish policies and performance management systems that are intolerant of apathy or poor quality work. Supervisors should be engaged at every step of the investigative process, and when mistakes occur, they should take responsibility to remedy the situation and improve the performance of officers in their charge.

It is also critical for law enforcement agencies to thoroughly address situations in which an *officer* has been identified as a perpetrator of sexual assault or domestic violence. Law enforcement executives must create a culture in which this kind of behavior is unacceptable, and there should be a thorough and impartial investigation into any allegation of misconduct. Officers found to have committed an offense should be held accountable.

Classification, investigation, and review of sexual assault cases

"Officers have to constantly hear the right leadership messages. They need to know that it isn't okay for them to judge the validity of sexual assault cases before a full investigation is completed. Officers that blow off sexual assault cases, or make assumptions about the validity of cases without investigating, need to be held accountable."

— Tom Tremblay, Retired Chief of Police, Burlington (Vermont) Police Department

Sexual assault cases that are not fully investigated or are misclassified as false reports can cause victims to distrust law enforcement and allow perpetrators to evade justice.[23] Roundtable participants recommended that supervisors take an active role in ensuring that officers appropriately classify and thoroughly investigate sexual assault offenses. "There needs to be enough oversight that no first-line officer can get anything into the system that someone else won't see first," said Chief Alan Rodbell of the Scottsdale (Arizona) Police Department. "All cases need to be thoroughly reviewed by a supervisor who will actually call out poor work."

Alan Rodbell

23. David Lisak, Lori Gardineir, Sarah C. Nicksa, et al., "False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases," *Violence Against Women* 16, no. 12 (2010): 1318-334, http://vaw.sagepub.com/content/16/12/1318.

John Vinson

Mr. Thomas of the U.S. Air Force Sexual Assault Prevention and Response Program emphasized that a precedent of active supervision will cause first-line officers to produce quality work to avoid reprimands. "Make it more burdensome for officers to get out of doing the right thing than it would be for them to do the right thing in the first place," said Thomas. "At the end of my shift, when I as an officer hand in a report and my supervisor signs off on it, they have in essence indicated that I have written an acceptable report. If, on the other hand, they kick it back due to my not crossing the t's and dotting the i's properly, the report is deemed unacceptable and remains unsigned. I am then forced to take the time to write it again and continue doing so until I get it right. Once signed off on, the report is official. Later on down the line, making the case and having documentation of the requisite evidence to make the case depends on the quality of that report."

Participants also highlighted the potential benefits of enlisting an external reviewer to ensure sexual assault cases are handled properly. Chief John Vinson of the University of Washington Police Department noted that law enforcement agencies can incorporate an external reviewer in small ways. "I sometimes speak with our victim advocate, who sits in on many of the interviews, to see how my investigators are doing," said Vinson. "If an officer isn't handling the interview in the appropriate manner, I'll hear about it." Vinson added that he regularly conducts surveys of his constituents at the University of Washington to see how victims and community members perceive his department's services.

On the other hand, external review of law enforcement agencies' responses to sexual assaults may be more comprehensive and serve as a formal check on agency processes. For example, Ms. Tracy of the Women's Law Project discussed how her organization collaborated with Women Organized Against Rape and two child advocacy agencies to conduct an annual audit of the Philadelphia Police Department's Special Victims Unit sexual assault and child abuse cases. That successful collaboration led the Philadelphia Police Department to invite advocates to assist in a reorganization of its response to domestic violence, including the development of a more extensive incident report form and a process for advocacy organizations to follow up with domestic violence victims. Tracy praised the Philadelphia Police Department's community engagement and transparency. Moreover, the police department and Philadelphia's advocacy community are now able to more thoroughly review sexual assault and domestic violence data to identify risk factors.

"We essentially fast-tracked a culture change. We're constantly reviewing trends in the data to see where there can be improvement."

— Carol Tracy, Executive Director, Women's Law Project

Ms. Ritchie at Streetwise and Safe has also assisted law enforcement agencies as an external reviewer. At the roundtable, Ritchie discussed her review of the New York City Police Department's *Patrol Guide*[24] in 2009 and the process for recommending and implementing

24. *Patrol Guide* (New York: New York City Police Department, 2009), http://ksapublications.info/app/pg/PG212.pdf.

changes. As a member of an advocacy group comprising transgender people and service providers who work closely with transgender populations, Ritchie went through the *Patrol Guide* and analyzed each provision to identify where officers could use more guidance regarding how to address questions of gender and how best to interact with transgender and gender nonconforming people. Ritchie's group was able to provide more detailed information about how officers should approach stops, searches, detention of suspects, and arrest processing and how to interact with victims of domestic violence and sexual assault. The police department adopted many of their recommendations. "It's not about blaming; it's about helping people do their job," said Ritchie. "The more information and specific instructions we can give them, that takes away some of the opportunity for implicit bias to affect outcomes."

Officer-involved incidents

Roundtable participants stressed that, as in other areas of officer misconduct, officer-perpetrated sexual assault and domestic violence must be dealt with quickly and authoritatively to advance the cause of justice and maintain police legitimacy. With this understanding in mind, participants advocated conducting a thorough, impartial investigation into every incident that comes to the attention of law enforcement executives and then taking a zero-tolerance approach if the investigation reveals the officer is culpable. "[Investigation of officer-involved incidents] absolutely needs to be our first priority," said Chief Gavin of the Falls Church Police Department. The community sees how we deal with our own and will take that into consideration when they decide whether or not to trust us."

Chief Rodbell of the Scottsdale Police Department discussed investigations as a way not only to determine an individual officer's culpability but also to see where there may be other issues with personnel. "I've dismissed multiple officers for lying or giving misleading statements in investigations," he said. "Sometimes, I'll dismiss officers before the investigation is completed because it is clear that they're unsuited for the job. And if they've sexually assaulted someone, they're obviously gone from the department."

Many participants called for independent investigations when allegations are made against officers. This approach not only can ensure the investigation is impartial but can also help build community trust and increase agency transparency. "Officer-involved incidents should never be investigated by the agency the officer works in. Instead, investigations should be outsourced to a state agency," said Detective Hull of the Ashland Police Department. However, outside investigations do not necessarily preclude internal investigations, noted Chief Vinson of the University of Washington Police Department. "If it's necessary, I may have the Seattle Police Department or another agency conduct the investigation against my officer," he said. "Once the outside investigation is resolved, then we'll pursue our own internal investigation."

Recommendations and promising practices

- Implement policies and practices that promote a culture of accountability. Law enforcement executives should make it clear that inappropriate behavior and poor performance will not be tolerated, and performance management systems should ensure officers properly investigate and classify sexual assault and domestic violence cases.
- Set clear expectations and guidance for investigators and first-line officers that first-line supervisors enforce. Supervisors should be engaged throughout the investigative process and address any problems with the way officers investigate or classify cases.
- Enlist an external reviewer to analyze agency policies and practices to ensure they are effective and implemented correctly. Use the feedback from external reviews to assess officer performance and to make appropriate changes to policies and practices.
- Solicit input from victim advocates to determine whether officers are appropriately and effectively engaging with victims. This can be particularly useful to evaluate officers when they conduct interviews with victims.
- Take swift and thorough action when allegations of sexual or domestic violence are made against an officer. Conduct comprehensive investigations into any allegations of misconduct. Enlisting an external agency to conduct an independent investigation can help ensure impartiality, promote trust within the community, and strengthen the legitimacy of the process. Officers who are found culpable should be terminated from agency ranks and prosecuted.

Resources and Partnerships

Roundtable participants discussed how law enforcement agencies can strengthen their response to sexual assault and domestic violence by building partnerships with service providers, community groups, and others within the criminal justice system. Victim advocates and service providers offer a wealth of knowledge that can assist law enforcement agencies as they work with victims and investigate cases, and community engagement can help officers to learn from community members and educate the public about support available to victims.

David Kennedy

"There is still a feeling among some people that intimate partner violence is different than other violence and can only be addressed through gross cultural change. This isn't always true," said David Kennedy, director of the National Network for Safe Communities. "Problem-oriented policing strategies also apply in the intimate partner violence context. We can find tools that let law enforcement and communities prevent at least the worst intimate partner violence."

Building partnerships

Many roundtable participants recommended that law enforcement agencies partner with others who provide support to victims of sexual assault and domestic violence. "A multidisciplinary response makes a huge difference," said Lieutenant Howard Black of the Colorado Springs Police Department. "We work with prosecutors, victim advocates, children's programs, and shelters. By bringing other disciplines into the picture, cops become better advocates themselves."

Howard Black

In addition to demonstrating to victims that an agency has earned trust within the community, a collaborative approach allows law enforcement agencies to draw from a wider, more diverse pool of knowledge that can produce innovative methods for engaging and assisting victims. "All good ideas are stolen from a thief," said Commander Daniel Hickson of the Washington (D.C.) Metropolitan Police Department. "We take ideas from others and adapt them to our needs. We can gain knowledge from service providers if we make the effort to engage them."

Daniel Hickson

Many law enforcement officials discussed the benefits of housing external service providers alongside investigators in the same building to provide a one-stop shop where victims can obtain services as they are reporting to officers.

For example, many law enforcement officials discussed the benefits of housing external service providers alongside investigators in the same building to provide a one-stop shop where victims can obtain services as they are reporting to officers. The Boston Police

Department has taken this approach by operating a family justice center that houses detectives, supervisors, victim advocates, and representatives from shelters, rape crisis centers, and other social service organizations in one centralized location.

"I can't emphasize enough how much of a difference getting everything and everyone in one building makes. We have social services downstairs and detectives upstairs, and survivors don't have to worry about running around to separate people and agencies because we take care of it for them."

— Norma Ayala Leong, Deputy Superintendent, Boston Police Department

Chief Rodbell of the Scottsdale Police Department has received positive feedback from victims regarding the Scottsdale Family Advocacy Center, where victims can receive a forensic examination, speak with victim advocates, and work with investigators. "One of the greatest benefits of having everything in one place is that survivors are not being constantly reinterviewed," said Rodbell. "We try to limit the number of times survivors have to repeat their accounts, because we don't want to be involved in any unintentional revictimization." This approach can help ensure victims feel comfortable to continue seeking out support services and engaging with law enforcement.

Kathy Witt

Sheriff Kathy Witt of the Fayette County (Kentucky) Sheriff's Office partners with 20 different agencies in a collaborative network assisting victims. "We all draw on each other's strengths," said Witt. "It's about working to get victims what they need, whether it's assistance getting transportation to court, a victim advocate, or anything else. We don't just tell survivors that's not our responsibility and advise them to call a number; we reach out to our partner agencies and connect them to services."

"We need to take a more holistic approach to dealing with sexual assault by combining medical care, evidence collection, investigations, prosecution, and public awareness."

— Lisa Madigan, Attorney General, State of Illinois

Lisa Madigan

In addition to strengthening the support offered to victims, taking a collaborative approach can help partners learn from one another and hold each other accountable. For example, in an effort to develop a more comprehensive response to sexual assault, Illinois Attorney General Lisa Madigan convened a working group comprised of prosecutors, advocates, and law enforcement agencies. "In coming together, we realized that historically we had each been dealing with discrete pieces of the problem. We saw how little we were actually moving forward by taking a piecemeal approach," said Madigan. By bringing together people with different experiences and strengths, the working group was able to approach sexual assault from a more holistic perspective. It now focuses on addressing four major areas: medical care and

evidence collection, investigations and enforcement, prosecutions, and public awareness and education. "As a group, we are able to share promising practices and learn from each other," said Madigan. "It has really changed the way we approach sexual assault in Illinois."

"There are a number of collateral consequences to reporting sexual assault and domestic violence that police need to be aware of and address," said Professor Julie Goldscheid of the City University of New York School of Law. "Survivors fear retaliation from perpetrators, or being reported to immigration authorities, or losing custody of children." A holistic partnership can allow relevant stakeholders to become aware of collateral consequences of reporting sexual assault and domestic violence and to act to reduce the burdens such consequences can produce.

Julie Goldscheid

Ms. Kramp of the Michigan Commission on Law Enforcement Standards discussed how building partnerships can also provide benefits in terms of financial resources. "We rely on other service providers for their expertise because without their help, we would not be able to provide necessary information due to the lack of funding for in-depth curriculum development and instructor facilitation training," said Kramp. "Having outside help can be huge when you're strapped for resources."

Detective Hull of the Ashland Police Department makes use of a local university's LGBT resource center to learn more about sexual violence in that community. "We don't need to reinvent the wheel when we can partner with others and benefit from their knowledge," said Hull, adding that relying on existing experts can save resources when searching for essential information.

John Guard

Community outreach

"You can't wait until someone is sexually assaulted; you have to have an existing relationship with the community. That requires proactive work giving officers exposure to communities that they may not otherwise interact with."

— Norma Ayala Leong, Deputy Superintendent, Boston Police Department

In addition to building partnerships with local service providers and other groups, roundtable participants said that law enforcement agencies can also learn and benefit from their interactions with community members. Through ongoing relationships with members of marginalized communities, officers can learn about a community's needs while also establishing that victims in those communities can safely approach officers.

"The key to outreach is making sure that people who come to the police are treated well and taken care of," said Sergeant John Guard of the Pitt County (North Carolina) Sheriff's Office. "They will spread the word that the police can be trusted to handle their cases with respect and seriousness. It means a lot more coming from a community member."

Roundtable participants advised that law enforcement agencies conduct proactive community outreach to help address the chronic underreporting that exists in many communities, such as LGBT and immigrant communities. To encourage reporting and to learn about community needs firsthand, agencies should use community liaisons, such as faith leaders, as part of their larger community policing efforts.

LGBT community liaisons

Several law enforcement officials discussed using liaisons for the LGBT community to more effectively serve victims of that identity. "I've established an LGBT liaison in every department where I've been chief," said Chief James Craig of the Detroit (Michigan) Police Department, adding that reporting rates for violent crimes increased in every police department where he implemented liaisons. "It is critical for building bridges and establishing trust within the community, and, frankly, it should be mandatory in all departments. We made it a matter of protocol for the investigators to notify the liaison to solicit help for LGBT cases. If the liaison is there from the first contact, the victim may feel more comfortable approaching police in the future."

James Craig

Sergeant Adams of the Richmond Police Department also mentioned her department's use of an LGBT liaison. "The liaison attends meeting within the LGBT community," said Adams. "It's important that someone is out there interacting with people. We just want to make sure that everyone is represented and feels safe to report."

Immigrant community liaisons

Roundtable participants also discussed the need to reach out to immigrant communities, where people are often hesitant to approach officers to report sexual assault, domestic violence, or any other type of crime. Many law enforcement officials said that attending community functions is a useful way of engaging members of an immigrant community. To encourage reporting and to learn about community needs firsthand, agencies should also use community liaisons as part of their larger community policing efforts.

"Some victims in immigrant communities may be particularly afraid to report crimes to police," said Chief Manger of the Montgomery County Police Department. "Police need to be able to address their concerns and, where needed, have interpreters on hand who can communicate effectively."

Chief Riseling of the University of Wisconsin-Madison Police Department also discussed the importance of offering language services for immigrant victims. "On our campus, there are a lot of international students, and they may be more reluctant to engage with police because of bad experiences in their home countries," she said. "Outreach materials should be available in multiple languages so that they are accessible to everyone."

Faith leaders

Several roundtable participants recommended that officers should reach out to groups or individuals who are leaders within their communities. In many places, this means reaching out to local faith leaders. "You need to include the interfaith community for sexual violence-related outreach," said Major Tapp-Harper of the Baltimore City Sheriff's Office. "For many victims, the faith community is their first point of contact after an assault."

Awareness campaigns

"Law enforcement has a lot of leverage to get people in the door. Whether the message is coming directly from police or police are facilitating advocates who have been working on these issues for years, there is always an audience."

— Carrie Hull, Detective, Ashland (Oregon) Police Department

Roundtable participants said that because many people have little knowledge of the prevalence and factors associated with sexual assault and domestic violence, law enforcement agencies should take the opportunity to engage the public in education and awareness campaigns. Public service announcements and awareness events can serve to increase societal empathy toward victims while signaling to victims that officers are willing to help.

Several agencies reported success through campaigns that use concise taglines combined with more substantive information. For example, the University of Wisconsin-Madison Police Department experienced a large increase in sexual assault reporting after running its "Tell Us" campaign. "It involved simple public service announcements telling students that they can talk to us and get results—namely, getting perpetrators off campus," said Chief Riseling. "A lot of times, survivors are told that what happened to them wasn't really a crime. This campaign countered that narrative, and reports went through the roof."

Major Burks of the Prince George's County Police Department also highlighted the use of public service announcements to counter societal misunderstandings of what "consent" truly means with respect to sexual assaults and to encourage reporting from victims who feel that offenses perpetrated against them are not serious enough to report to officers. "We ran a campaign called 'Stop the Silence,'" said Burks. "We tried to get our message out in a number of different ways: billboards, flyers, bus stop ads, radio ads—you name it. We need to reach as many people as possible."

Educational campaigns may be particularly useful for a younger audience in which misconceptions about sexual assault and domestic violence may not yet be fully engrained. "Conduct education programs for teenagers to encourage healthy relationships," said Chief Manger of the Montgomery County Police Department. "If young people can identify

abuse, we can prevent future offenses from taking place." On behalf of victims, police have the opportunity to use their platform to educate the public, encourage empathy and understanding of victims, and possibly prevent future offenses.

The Carol Adams Foundation

Fulfilling Promises to Victims through Innovative Partnerships and Community Outreach

While working on domestic violence cases with the Richmond (Virginia) Police Department, Sergeant Carol Adams realized there were significant gaps in the support offered to victims. "Sometimes resources would be available to victims of domestic violence, but other times, victims would need services, and they would be left out in an ocean with nowhere to go," she said.

Recognizing that the department did not always have the resources to provide adequate services to victims, Sergeant Adams decided to think outside the box. She started the Carol Adams Foundation, a nonprofit organization dedicated to raising money and providing assistance for victims of domestic violence. Although the foundation is independent from the Richmond Police Department, Adams said that the support she receives from the department is critical to the foundation's success.

"It's a true partnership," said Sergeant Adams, noting the involvement of officers in the fundraising events she has organized, which included a police fashion show and a 5K walk. Adams said that the visible support from other law enforcement officers at these events has encouraged greater community involvement and promoted trust between victims and the Richmond Police Department. "With the chief of police and other officers behind the messaging, we have been able to receive a lot of help from the community and raise a significant amount of money to help survivors," said Adams.

The funds raised by the foundation go toward providing victims with clothes, food, and medical supplies, as well as to transitional homes where victims and their families can live for one year rent-free as they get back on their feet. The foundation has also partnered with Verizon to collect recycled cell phones to use as "hopelines" for victims, and the foundation recently received a donated house to use as a shelter when the local shelter is full. "When a victim of domestic violence needs money to stay in a hotel or needs to get their family on a bus out of town, I can direct them to someone who can provide that," said Adams.

To Sergeant Adams, providing victims with the help they need is all about trust. "Once people place their trust in us, it is incumbent upon us to provide what we say we can," she said. "We absolutely have to provide what we promise to victims, and that would not be possible without support from the police department and from the community."

Recommendations and promising practices

- Establish partnerships between law enforcement agencies, local service providers, advocates, prosecutors, and others who provide support to sexual assault and domestic violence victims. Law enforcement agencies should actively reach out to these groups and work with them on behalf of victims.
- House service providers and advocates with law enforcement investigators in one centralized facility where victims can receive services as they engage with officers. Providing a one-stop shop for victims can help them to feel more comfortable engaging the criminal justice system and seeking the services they need.
- Take a holistic and collaborative approach to addressing sexual assault and domestic violence. One promising strategy is to convene a working group, comprised of people from various disciplines, that focuses on all aspects of sexual assault and domestic violence.
- Conduct outreach to the community to establish trust and to encourage victims to come forward and report crimes. This is particularly important in communities where people may feel marginalized and more hesitant to approach officers, such as LGBT and immigrant communities. Promising outreach strategies include employing liaisons to work with community members and investigators, attending events within the various communities, having interpreters present to work with non-English speaking victims, and engaging leaders in the faith community.
- Conduct public awareness campaigns to spread information about the factors associated with sexual assault and domestic violence and the services available to victims. Some law enforcement agencies have found that campaigns using concise taglines, followed by more substantive information, can be particularly effective. Public awareness campaigns can include social media, flyers, billboards, radio spots, and ads placed at bus stops and around the community.
- Partner with independent organizations that provide advocacy and fundraising to assist sexual assault and domestic violence victims.

Conclusion

This publication—which is intended to accompany the guidance provided in the U.S. Department of Justice's *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*—seeks to highlight promising practices shared by the roundtable participants and spur further research into effective policies and practices. The professional observations of those who attended also serve as inspiration for law enforcement agencies seeking to improve their services to victims of sexual assault and domestic violence as they develop and refine policies, training standards, and accountability measures.

Prior to developing formal policies, participants stressed the importance of establishing an agency culture in which the expectation is that officers explicitly reject biased attitudes and behaviors, provide a supportive environment for victims, and rigorously investigate sexual assault and domestic violence cases. Law enforcement officials and first-line supervisors are responsible for promoting this type of environment by making it clear that the agency will not tolerate inappropriate behavior.

Law enforcement executives and first-line supervisors must establish performance management systems that are intolerant of apathy or poor quality work, and they must take responsibility to improve the performance of officers in their charge. Supervisors should be engaged throughout the investigative process and address problems in the way that officers investigate or classify cases. In addition, agencies should consider soliciting external reviews of agency policies and practices to promote transparency, to ensure policies are effective, and to identify areas for improvement.

Participants also recommended that law enforcement agencies make it a priority to build a police force that reflects the communities they serve with respect to gender identity, sexual orientation, race, and other demographics so that victims of all identities are comfortable approaching officers.

As part of establishing institutional culture, participants discussed the need for a victim-centered approach to ensure the criminal justice process never occurs at the expense of victims. Recommendations for instituting this approach include enlisting the help of victim advocates employed in house or through partnerships with external organizations and empowering victims to dictate the extent of their involvement in the criminal justice process, even if that means not prosecuting a case. This approach projects a safe environment for victims, and if more victims become comfortable approaching officers, law enforcement agencies will be better able to identify perpetrators, prevent future offenses, and link victims of violent crime to much needed services.

Participants also highlighted the importance of training that equips officers with the tools and knowledge they need to effectively respond to sexual assault and domestic violence cases that are often complex and challenging. Law enforcement agencies should consid-

er partnering with victims in the community when conducting training to counter any pre-existing notions officers may have about what victims and perpetrators "should" look like and to provide information about marginalized communities with which officers may otherwise be unfamiliar. Training should also use interactive methods, such as group discussions and scenario-based training, in both academy training and frequent in-service training to keep officers up to date on current research, policy, and law. Trauma-informed interviewing training should be required for first responders and investigators dedicated to sexual assault and domestic violence cases so that officers can more effectively investigate such cases and avoid alienating victims.

Law enforcement executives and victim advocates also provided recommendations for agency policy with respect to domestic violence arrest decision-making and offender supervision. Policies should provide guidance on how to identify a predominant aggressor to avoid the unintentional arrest of self-defending victims. Agencies should also consider partnering with probation offices and prosecutors in targeted deterrence initiatives, like the initiative implemented in High Point, North Carolina, to ensure offenders are held accountable after conviction and to prevent recidivism.

To promote effective investigation of sexual assault offenses, law enforcement agencies should implement policies that require the timely storage and processing of all sexual assault forensic evidence kits. Evidence from such kits can help prosecutors to identify serial offenders and assist victims in other cases around the country as DNA evidence databases are populated.

Participants stressed the importance of addressing officer-involved incidents quickly and authoritatively. Law enforcement executives must ensure that allegations of sexual assault or domestic violence made against officers are thoroughly investigated and that officers found responsible for such offenses are held accountable. Enlisting an external agency to conduct an independent investigation can help to ensure impartiality, promote community trust, and strengthen the legitimacy of the process.

Participants also discussed how law enforcement agencies can strengthen their response to sexual assault and domestic violence by establishing partnerships with service providers, community groups, and others within the criminal justice system. Agencies should consider housing service providers within building to create a one-stop shop for victims who choose to report to officers, making the process more comfortable and resources more accessible. In addition, participation in working groups and other collaborative efforts to address sexual assault and domestic violence can allow agencies to take advantage of existing community resources and knowledge that can inform agency practices.

Law enforcement agencies should also reach out to communities that may be hesitant to approach officers—such as LGBT, immigrant, and youth communities—through the use of community liaisons, who can establish working relationships with leaders in marginal-

ized communities. Agencies should also conduct public awareness campaigns to educate community members on the factors of sexual assault and domestic violence and improve awareness of the services available to victims.

Above all, the law enforcement executives, advocates, federal officials, and other experts who attended the roundtable agreed that although some progress has been made, there is still substantial room for improvement in the law enforcement response to sexual assault and domestic violence. By sharing knowledge and promising practices, this publication seeks to build on the work of agencies that have strived to gain the trust of victims while holding sexual assault and domestic violence offenders accountable.

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Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence

What follows is a replica of the guidance released by the U.S. Department of Justice on December 15, 2015.

Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence

Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence

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Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence

Statement of Purpose

The Department of Justice (department) is committed to assisting law enforcement agencies in their efforts to reduce sexual assault and domestic violence, and to administer justice when these crimes occur. Through the department's many partnerships with state, local, tribal and territory law enforcement agencies (collectively, law enforcement agencies or LEAs), the department has recognized that many agencies are striving to improve their response to allegations of sexual assault and domestic violence, and are seeking assistance and support for these efforts.

This guidance document is intended to reflect and further the department's partnership with the police leaders, line officers and detectives who work tirelessly to ensure that policing is free from bias and to uphold the civil and human rights of the communities they serve.[1] The department extends its appreciation to the many police leaders and experts on law enforcement responses to sexual assault and domestic violence who worked with us to develop this guidance and provided us with helpful comments and suggestions.

One critical part of improving LEAs' response to allegations of sexual assault and domestic violence is identifying and preventing gender bias in policing practices.[2] Gender bias in policing practices is a form of discrimination that may result in LEAs providing less protection to certain victims on the basis of gender, failing to respond to crimes that disproportionately harm people of a particular gender or offering reduced or less robust services due to a reliance on gender stereotypes. Gender bias, whether explicit or implicit, conscious or unconscious, may include police officers misclassifying or underreporting sexual assault or domestic violence cases, or inappropriately concluding that sexual assault cases are unfounded; failing to test sexual assault kits; interrogating rather than interviewing victims and witnesses; treating domestic violence as a family matter rather than a crime; failing to enforce protection orders; or failing to treat same-sex domestic violence as a crime. In the sexual assault and domestic violence context, if gender bias influences the initial response to or investigation of the alleged crime, it may compromise law enforcement's ability to ascertain the facts, determine whether the incident is a crime, and develop a case that supports effective prosecution and holds the perpetrator accountable.

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[1] This guidance, however, is not intended to, and does not, create any right, benefit, trust or responsibility, whether substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees or agents, or any person.

[2] The focus of this document is reducing gender bias in *policing*. Addressing gender bias in policing is critical because police officers frequently have the initial contact with victims of sexual assault and domestic violence and LEAs generally conduct the investigations of sexual assault and domestic violence incidents. It is important to note, however, that gender bias—both explicit and implicit—exists throughout society, and as a result, it can arise in various aspects of the criminal justice system. Explicit and implicit gender bias can undermine the effective handling of sexual assault and domestic violence cases at any point from report to adjudication or closure. While not the subject of this document, addressing gender bias on the part of prosecutors, judges and juries in their consideration of sexual assault and domestic violence cases is critical to ensuring that justice is served. In addition, it is important for LEAs to be mindful that gender bias can occur alongside other types of unlawful discrimination, including racial bias, exacerbating any deficiencies in the criminal justice system's response to reports of sexual assault and domestic violence and further undermining access to safety for those victims.

The Purpose of This Guidance is to:

- examine how gender bias can undermine LEAs' response to sexual assault and domestic violence; and
- provide a set of basic principles that—if integrated into LEAs' policies, trainings and practices—will help ensure that agencies' efforts to keep victims safe and hold offenders accountable are not undermined, either intentionally or unintentionally, by gender bias.

The Department Encourages Law Enforcement Agencies to Consider These Principles and Integrate Them into:

- clear, unequivocal policies about the proper handling of sexual assault and domestic violence crimes;
- training for officers about these policies and about effective responses to sexual assault and domestic violence crimes more generally; and
- supervision protocols and systems of accountability to ensure that officers responding to sexual assault and domestic violence crimes act in accordance with these policies and trainings.

This document, alongside the department's other work in this area—including the provision of funding and technical assistance to LEAs—is meant to provide guidance to agencies as they develop more effective policies, practices and trainings. This document is not intended to provide a comprehensive list of best practices, or act as an operational handbook for responding to and investigating allegations of sexual assault or domestic violence. The department has additional resources to further assist LEAs in improving their response to sexual assault and domestic violence. These resources are discussed at the end of this document and listed in the attached appendix.

I. Background

Sexual assault and domestic violence are crimes that disproportionately impact women, girls, and lesbian, gay, bisexual, and transgender (LGBT) individuals in the United States. According to surveys conducted by the Bureau of Justice Statistics and the Centers for Disease Control and Prevention (CDC):

- 90 percent of all cases of rape involve female victims.[3]
- Nearly one in five women in the United States (18.3 percent) have been raped.[4]
- About one in four women (24.3 percent) and one in seven men (13.8 percent) in the United States have experienced severe physical violence at the hands of an intimate partner.[5]
- 44 percent of lesbian women and 61 percent of bisexual women have experienced rape, physical violence, and/or stalking by an intimate partner.[6]
- 26 percent of gay men and 37 percent of bisexual men have experienced rape, physical violence, and/or stalking by an intimate partner.[7]

While there is a lack of data on the violence experienced by transgender individuals, community-based studies indicate high levels of victimization.[8]

Since the passage of the Violence against Women Act in 1994 (VAWA),[9] annual rates of domestic violence reports have dropped by 64 percent.[10] This progress is significant and due in no small part to the work

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[3] U.S. Dep't of Justice, Bureau of Justice Statistics, *Female Victims of Sexual Violence*, 1994-2010, at 3 (2013), *available at* http://www.bjs.gov/content/pub/pdf/fvsv9410.pdf.

[4] Ctrs. for Disease Control and Prevention, Nat'l Ctr. for Injury Prevention and Control, *National Intimate Partner and Sexual Violence Survey* 1 (2010), *available at* http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Executive_Summary-a.pdf.

[5] *Id*. at 2.

[6] Ctrs. for Disease Control and Prevention, Nat'l Ctr. for Injury Prevention and Control, *National Intimate Partner and Sexual Violence Survey: 2010 Findings on Victimization by Sexual Orientation* 2 (2013), *available at* http://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf.

[7] *Id*.

[8] *See, e.g.,* Nat'l Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Intimate Partner Violence in 2013,* at 10 (2014 release edition), *available at* http://www.avp.org/storage/documents/ncavp2013ipvreport_webfinal.pdf; *see also* Rebecca L. Stotzer, *Violence Against Transgender People: A Review of United States Data,* 14 Aggression and Violent Behavior 170, 171-172 (May-June 2009).

[9] Although VAWA refers to women in its title, the statute makes clear that the protections are for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. 42 U.S.C. § 13925(b)(13).

that LEAs have done, in partnership with the department, to improve their response to allegations of domestic violence. Yet, despite this progress, domestic violence still occurs at alarming rates and too often becomes lethal. On average, three women die per day as a result of domestic violence in the United States and, for every woman killed in a domestic violence homicide, nine more are critically injured.[11]

The persistence of these high rates of crimes involving sexual assault and domestic violence underscores the critical importance of the role of law enforcement agencies in investigating these crimes thoroughly and with the same vigor and skill as they do other crimes of a similar significance that occur in their jurisdictions. By using thorough and effective investigative techniques, LEAs will continue to improve their efforts to ensure that the perpetrators of these crimes are held accountable and that the victims receive meaningful access to justice.

Over the past 20 years, VAWA funding has transformed how criminal justice systems in many communities respond to sexual assault and domestic violence. Some of the innovations funded through VAWA include law enforcement collaboration with victim service providers; use of evidence-based lethality assessments to curb domestic violence-related homicides; improved forensic medical examinations for sexual assault victims; investigation and prosecution policies and practices that focus on the offender and account for the effects of trauma on victims; specialized law enforcement and prosecution units; enhanced offender monitoring; and improved training for law enforcement, prosecutors and judges. LEAs are a critical component of a coordinated community response to sexual assault and domestic violence. By dedicating additional attention and resources to improving law enforcement's response to such crimes—including making efforts to eliminate gender bias—agencies will be better able to meet the needs of victims and the communities they serve.

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[10] U.S. Dep't of Justice, Bureau of Justice Statistics, *Intimate Partner Violence, 1993-2010,* at 1 (rev. 2015), *available* at http://www.bjs.gov/content/pub/pdf/ipv9310.pdf.

[11] U.S. White House, Office of the Vice President, *Fact Sheet: The Obama Administration's Commitment to Reducing Domestic Violence Homicides (2014), available* at https://www.whitehouse.gov/sites/default/-files/docs/dv_homicide_reduction_fact_sheet.pdf; *see also* U.S. Dep't of Justice, Bureau of Justice Statistics, *Intimate Partner Violence: Attributes of Victimization, 1993-2011,* (2013), *available at* http://www.bjs.gov/content/pub/pdf/ipvav9311.pdf; Jacquelyn C. Campbell et al., *Intimate Partner Homicide: Review and implications of research and policy*, 8 Trauma, Violence, & Abuse 246 (July 2007).

II. Improving the Response to Domestic Violence and Sexual Assault by Preventing Gender Bias in Policing Practices

A. Identifying the Impact of Gender Bias on Policing

Explicit and implicit biases, including stereotypes about gender roles, sexual assault, and domestic violence, are embedded in our culture and can affect people in all different professions.[12] With respect to policing, these biases may affect law enforcement officers' perceptions of sexual assault and domestic violence incidents and prevent them from effectively handling allegations of these crimes.[13] The intersection of racial and gender stereotypes and biases can also pose unique difficulties for women and LGBT individuals of color seeking police services to address sexual assault and domestic violence incidents.[14]

In some cases, a police officer may discriminate against victims of sexual assault or domestic violence because of a general bias against women or LGBT individuals. More commonly, discrimination may be based on explicit stereotypes about women or LGBT individuals. Acting on stereotypes about why women or LGBT individuals are sexually assaulted, or about how a victim of domestic violence or sexual assault should look or behave, can constitute unlawful discrimination and profoundly undermine an effective response to these crimes. For example, if an officer believes a sexual assault to be less severe because the victim was assaulted by an acquaintance or was intoxicated when the assault occurred, or based on stereotypical assumptions about a victim who is a gay man or lesbian woman assaulted by his or her partner, that is gender bias and may constitute unlawful discrimination.

Even where law enforcement officers harbor no explicit biases or stereotypes about women or LGBT individuals, an officer's unconscious bias towards these groups can undermine an effective response to sexual assault and domestic violence incidents. In recent years, the criminal justice community has begun to examine

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[12] See e.g., *Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases: Hearing Before the Subcomm. on Crime and Drugs of the Senate Comm. on the Judiciary* 111th Cong. 6-7 (Sept. 14, 2010) (statement of Carol E. Tracy, Executive Director, Women's Law Project) [hereinafter *2010 Senate Committee Testimony*], *available at* http://www.judiciary.senate.gov/imo/media/doc/09-14-10%20Tracy%20Testimony.pdf (citing research); Zanita E. Fenton, *Domestic Violence in Black and White: Racialized Gender Stereotypes in Gender Violence*, 8 Colum. J. Gender & L. 1, 27 (1998).

[13] *See 2010 Senate Committee Testimony, supra* note 12, at 6-7.

[14] *See generally*, Linda L. Ammons, *Mules, Madonnas, Babies, Bathwater, Racial Imagery and Stereotypes: The African-American Woman and the Battered Woman Syndrome*, 1995 Wis. L. Rev. 1003, 1069-74 (1995). *See also* Fenton, *supra* note 12, at 53-54 (discussing how stereotypes can lead police to take the claims of African-American victims less seriously than others); Domestic Violence at the Margins: Readings on Race, Class, Gender, and Culture (Natalie J. Sokoloff and Christina Pratt, eds., 2005); Natalie J. Sokoloff and Ida Dupont, *Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and Contributions to Understanding Violence Against Marginalized Women in Diverse Communities*, 11 Violence Against Women 38, 43 (Jan. 2005).

compelling social science research that suggests "implicit biases are predilections held by all [people] that operate largely outside of one's awareness."[15] A collaboration of researchers at several major universities has found that implicit biases are pervasive, people are often unaware of their implicit biases and implicit biases can predict behavior.[16] Scholars have examined the implications of this research for law enforcement agencies.[17] It is important for law enforcement to recognize the prevalence of implicit bias and to consider how both explicit and implicit bias might impact the law enforcement response to crimes involving sexual assault and domestic violence.

Eliminating gender bias in policing practices is an integral component of combating sexual assault and domestic violence, and can have a real and immediate effect on the safety of individual victims. A swift and meaningful criminal justice response to violence against women and LGBT individuals is critical for preventing future victimization[18] and arresting offenders can deter repeat abuses.[19] Further, an appropriate law enforcement response not only fosters victim confidence, it also makes victims more likely to report future incidents.[20] By contrast, if law enforcement agencies do not respond effectively to an incident of sexual assault or domestic violence, victims are less likely to participate in the investigation and prosecution of their case or seek police assistance in the future.[21]

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[15] Tracey G. Gove, *Implicit Bias and Law Enforcement*, 78 The Police Chief 44, 44 (Oct. 2011), *available at* http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=2499&issue_id=102011 (last visited Oct. 2, 2015); *see also* Tami Abdollah, *Police Agencies Line Up to Learn About Unconscious Bias*, Associated Press, Mar. 9, 2015, *available at* http://www.dailynews.com/government-and-politics/20150315/police-agencies-line-up-to-learn-about-unconscious-bias.

[16] Gove, *supra* note 15.

[17] *See e.g.*, L. Song Richardson and Phillip Atiba Goff, *Interrogating Racial Violence*, 12 Ohio St. J. Crim. L. 115 , 120-24 (2014) (discussing studies regarding the impact of implicit bias on police use of force).

[18] *See* André Rosey et al., *Investigation and Prosecution of Sexual Assault, Domestic Violence, and Stalking* 17-18 (2011), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/236429.pdf; Jill Messing et al., *Police Departments' Use of the Lethality Assessment Program: A Quasi-Experimental Evaluation* 86-87 (2014), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/247456.pdf.

[19] Christopher D. Maxwell et al., U.S. Dep't of Justice, Nat'l Institute of Justice, *The Effects of Arrest on Intimate Partner Violence: New Evidence From the Spouse Assault Replication Program* 1 (2001), *available at* https://www.ncjrs.gov/pdffiles1/nij/188199.pdf; Laura Dugan et al., *Exposure Reduction or Retaliation? The Effects of Domestic Violence Resources on Intimate-Partner Homicide*, 37 Law & Society Review 169, 178 (2003) *available at* http://www.ccjs.umd.edu/sites/ccjs.umd.edu/files/pubs/lasr_03701005.pdf.

[20] Robert C. Davis & Christopher Maxwell, Vera Institute of Justice, *Preventing Repeat Incidents of Family Violence: A Reanalysis of Data from Three Field Tests* 5-6 (2002), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/200608.pdf ; Paul C. Friday, *Evaluating the Impact of a Specialized Domestic Violence Police Unit* 5-8 (2006), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/215916.pdf.

[21] Eve S. Buzawa & Carl G. Buzawa, Domestic Violence: The Criminal Justice Response 127 (2003).

Moreover, an effective police response to domestic violence and sexual assault can improve the safety of our communities as a whole. Reducing female intimate partner homicides also reduces collateral homicides of children, other family members, and responding law enforcement officers, while also reducing abuser suicides.[22] Because some individuals suffer multiple victimizations before reporting to police, a full investigation of a particular domestic violence incident may reveal additional, even more serious incidents of abuse.[23] Studies also indicate that many abusers are likely to commit new domestic and nondomestic violence crimes; thus, vigilant police investigation of sexual assault and domestic violence may help prevent other violent crimes.[24]

The experience of Detroit illustrates the vital importance of fully investigating every reported sexual assault, regardless of an individual officer's assessment of a particular victim's credibility.[25] In 2009, the City of Detroit discovered over 11,000 untested sexual assault kits. When just 1,595 of those kits were tested, they yielded 785 Combined DNA Index System (CODIS) eligible profiles. And, in turn, over half of those profiles belonged to individuals already in CODIS and 28 percent yielded serial sexual assault hits (i.e., a DNA match across two or more sexual assault kits).[26] In short, the DNA from these untested kits belonged to offenders who had committed other crimes, including multiple other sexual assaults.[27]

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[22] Andrew R. Klein, U.S. Dep't of Justice, Nat'l Institute of Justice, *Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges* 4 (2009), *available at* https://www.ncjrs.gov/pdffiles1/nij/225722.pdf (citing Federal Bureau of Investigations data and multiple state and local fatality reviews).

[23] *Id*. at 4, 6.

[24] *Id*. at 19-21.

[25] "An analysis of 1,268 sexual assault police reports associated with [sexual assault kits] that had not been submitted for testing revealed that most cases were closed after minimal investigational effort. In both the stakeholder interviews and in the actual police reports, law enforcement personnel expressed negative, victim-blaming beliefs about sexual assault victims." Rebecca Campbell et al., The *Detroit Sexual Assault Kit (SAK) Action Research Project (ARP), Final Report* iv (2015) (emphasis in original), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/248680.pdf.

[26] *Id*. at iii-vi.

[27] As of August 2015, Detroit has tested approximately 10,000 kits, resulting in 2,478 DNA matches and the identification of 469 potential serial rapists. The Wayne County Prosecutor's Office has obtained 21 convictions, and the DNA from the tested kits has been linked to crimes committed in 39 states. *Detroit*, EndtheBacklog, http://www.endthebacklog.org/detroit-0 (last visited Aug. 27, 2015).

B. Principles to Prevent Gender Bias in Policing

Certain aspects of the law enforcement response to sexual assault and domestic violence appear particularly susceptible to explicit and implicit bias based on gender. Set forth below are a set of basic principles that will help reduce the potential for discrimination. The department encourages LEAs to consider these principles and integrate them into: (1) clear, unequivocal policies about the proper handling of sexual assault and domestic violence crimes; (2) training for officers about these policies and about effective responses to sexual assault and domestic violence crimes more generally; and (3) supervision protocols and systems of accountability to ensure that officers responding to sexual assault and domestic violence crimes act in accordance with these policies and trainings.

In identifying these principles, the department is not presenting an exhaustive list of ways that LEAs can reduce gender bias in its policing activities. Rather, adherence to these basic principles in developing policies, practices and trainings related to sexual assault and domestic violence cases will help law enforcement agencies provide police services free from discrimination on the basis of gender and handle these cases more effectively. The Department encourages LEAs to develop practices that build on and go beyond the basic principles described here. As set forth in the conclusion of this document, the department stands ready to assist and support these efforts.

Principle 1
Recognize and Address Biases, Assumptions and Stereotypes about Victims [28]

In responding to a report of sexual assault or domestic violence, law enforcement officers should not base their judgments as to the credibility of a victim's account on assumptions or stereotypes about the "types" of people that can be victims of sexual assault, or about how victims of sexual assault and domestic violence "should" respond or behave. The following examples illustrate the application of assumptions or stereotypes to victims to gauge a victim's credibility, which undermines an effective investigation:

Example: A young woman enters a police station and reports that, two weeks earlier, she was raped at a house party by a colleague from work. The woman reports that she had been drinking that evening. The police officer on duty asks how often the woman drinks excessively at house parties and asks her what she was wearing that night. The officer then tells her that she should really watch how much she consumes when she goes out at night, especially if she is getting dressed up.

Example: A tall man, in good physical condition and with no visible injuries, goes to the local police precinct and reports that his boyfriend, with whom he lives, has been sending him threatening text and voice messages over the past several weeks, and that, the night before, his boyfriend had assaulted him. The responding officer looks at the man skeptically and tells him that he's not sure that he can take a report based on this situation. The officer tells the man to think carefully about whether he has a crime to report and to come back another day if he still believes he needs assistance.

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[28] Letter from Thomas Perez, Ass't Att'y Gen. of the United States, to Hon. John Engen, Mayor of Missoula, Montana, 8, 13 (May 15, 2013) [hereinafter *Missoula FL*], *available at* http://www.justice.gov/sites/default/-files/crt/legacy/2013/05/22/missoulapdfind_5-15-13.pdf; Investigation of the New Orleans Police Dep't, U.S. Dep't of Justice, Civil Rights Division 43, 46 (Mar. 16, 2011) [hereinafter *NOPD FL*], *available at* http://www.justice.gov/crt/about/spl/nopd_report.pdf; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., *Investigating Sexual Assaults: Concepts and Issues Paper* 4 (2005) [hereinafter *IACP Investigating Sexual Assaults Issues Paper*], *available at* http://www.ncdsv.org/images/IACP_InvestigatingSAConceptsIssuesPaper_7-2005.pdf.

Example: A woman who has been known to engage in prostitution flags down a police officer who frequently patrols her neighborhood. She reports to the officer that she was just raped. The police officer on duty writes down her statement, but, when he returns to the police station, he immediately classifies the complaint as "unfounded," and takes no further action, because of the woman's sexual and criminal history.

Principle in Practice

Law enforcement agencies should review and revise their policies and procedures as necessary and provide training to officers to ensure that responding officers and investigators gather all pertinent evidence in an unbiased manner. A victim's nonconformance with behavioral stereotypes should not impact the way law enforcement officers evaluate the complaint.[29] Biases should also not prevent officers from taking a report or detectives from conducting a full investigation of all complaints received.[30] Thus, the following factors, standing alone, are not dispositive in determining a victim's credibility: delayed reporting; the victim's history of making similar reports; the victim's sexual history; the victim's emotional state (*e.g.*, whether a victim appears calm versus emotional or visibly upset); the victim's lack of resistance; the victim's criminal history or history of prostitution; evidence that the victim has a mental illness; evidence that the victim has a history of abusing alcohol or drugs; what the victim was wearing at the time the victimization occurred; whether the victim is of comparable size/strength to the assailant; the lack of any obvious signs of physical harm to the victim; the victim's sexual orientation or gender identity; and whether the victim was attacked by a person of the same sex.[31]

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[29] See Memorandum of Understanding between the U.S. Dep't of Justice and City of Missoula Regarding the Missoula Police Department's Response to Sexual Assault 5 (May 15, 2013) [hereinafter *Missoula MOU*], *available at* http://www.justice.gov/sites/default/files/crt/legacy/2013/05/15/missoulapdsettle_5-15-13.pdf ; Int'l Ass'n of Chiefs of Police, *Sexual Assault Incident Reports Investigative Strategies* 5 (2005) [hereinafter *IACP Sexual Assault Incident Reports*], *available at* http://www.theiacp.org/portals/0/pdfs/SexualAssaultGuidelines.pdf; Int'l Ass'n of Chiefs of Police, *Model Policy on Investigating Sexual Assaults* 1, 4 (2005) [hereinafter *IACP Model Policy on Investigating Sexual Assaults*], *available at* https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=93; *IACP Investigating Sexual Assaults Issues Paper, supra* note 29, at 4; End Violence Against Women Int'l, *Training Bulletin: When to Conduct an Exam or Interview 3* (2013) [hereinafter *EVAWI Training Bulletin*], *available at* http://www.ncdsv.org/images/EVAW_When-to-conduct-an-exam-or-interview_6-2013.pdf.

[30] Before making final credibility determinations, investigators should gather and assess objective evidence (statements; medical evidence; camera footage) as available and appropriate. *See infra*, Principle 3, notes 42-45 for guidelines on conducting a full investigation.

[31] *See generally IACP Sexual Assault Incident Reports, supra* note 29, at 5; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 4.

Principle 2
Treat All Victims with Respect and Employ Interviewing Tactics That Encourage a Victim to Participate and Provide Facts About the Incident[32]

A victim who is treated with respect is more likely to continue participating in an investigation and prosecution than one who feels judged or blamed for a sexual assault or domestic violence incident. Law enforcement agencies should take affirmative steps to ensure that, throughout their investigations, officers treat victims with respect and dignity, and use appropriate trauma-informed interviewing techniques to establish a rapport with the victim. The following example illustrates the use of inappropriate interviewing tactics that may cause a victim to be less willing to participate in an investigation or proffer facts about the incident:

Example: A woman reports to the police that she was raped several months ago while attending a party. The law enforcement officer on duty takes a cursory report and gives the file to an investigator, who says to the woman:

- "I'm sorry but you are reporting an incident that occurred several months ago. There is nothing we can do at this point."
- "Is the reason you waited so long to report this rape because you now regret having sex?"
- "How can you remember any details given how much you had to drink?"
- "What did you think was going to happen after you went to his room alone?"
- "Why didn't you push him off you and leave?"

Principle in Practice

Although law enforcement agencies will often need to ask difficult questions on the above topics to get information necessary to fully investigate a complaint or prepare a case for successful prosecution, *how* and *when* difficult questions are asked is an important consideration. By taking affirmative steps to respect the dignity of all complainants, law enforcement officers may be able to increase the quality and quantity of the information they receive. In addition, there are also some questions that are inappropriate to ask at any point during the investigation, no matter how they are phrased. These types of questions ignore the trauma that victims experience and, whether intentionally or not, suggest that blame should be placed on the victim or that the victim should not have reported the incident to the police at all. Examples of these questions include:

- "Have you considered talking to the man and letting him know that you are upset?"
- "Have you thought about how this is going to affect the alleged assailant's scholarship/career/reputation/etc.?"
- "Wasn't this just a trick gone bad?"

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[32] *Missoula FL, supra* note 28, at 8-9, 13; *NOPD FL, supra* note 28, at 43-44, 46-48.

Understanding the impact of trauma on the victim may help to explain many of the challenges that officers face in interviewing victims (*e.g.*, memory gaps, inconsistent accounts, or delayed reporting) and prevent inappropriate questioning. Law enforcement agencies should review and revise their policies and procedures, as necessary, and provide training to assist officers in being cognizant of the emotional impact that participating in interviews and evidence-gathering may have on a victim who has undergone a traumatic event, such as a rape or sexual assault.[33] For example, a victim may experience flashbacks or intense psychological distress when asked to recall details about the incident or event. It is important that officers convey to a victim that the purpose of the interview is to understand and determine the facts, not to blame the victim.[34] Accordingly, officers should be trained to ask neutral, open-ended questions that elicit a narrative of the events from the victim, rather than leading questions or questions that may be perceived as assigning blame.[35] Examples of neutral and open-ended questions include:

- "Can you tell me what happened?"
- "What can you tell me about the person who did this to you?"
- "What can you tell me about anything the person said before, during, or after the incident?"
- "Can you tell me about any witnesses or people who might have seen the incident?"
- "Did anything in particular cause you to come tell us about this incident today?"
- "Have you received medical treatment? Would you like to go to the hospital?"

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[33] Consent Decree Regarding the New Orleans Police Department, *U.S. v. City of New Orleans*, No. 2:12-cv-01924-SM-JCW, at 54 (Jan. 11, 2013) [hereinafter *NOPD CD*], *available at* http://www.justice.gov-/sites/default/files/crt/legacy/2013/01/11/nopd_agreement_1-11-13.pdf; *IACP Sexual Assault Incident Reports, supra* note 29, at 4-5; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 4; *EVAWI Training Bulletin, supra* note 29, at 3-4.

[34] *Missoula MOU, supra* note 29, at 5, 7; *IACP Sexual Assault Incident Reports, supra* note 29, at 4; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 1.

[35] *Missoula MOU, supra* note 29, at 5, 7; *IACP Sexual Assault Incident Reports, supra* note 29, at 3; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 4. See also The Nat'l Ctr. for Women and Policing, *Successfully Investigating Acquaintance Sexual Assault: A National Training Manual for Law Enforcement, Drug-Facilitated Sexual Assault Module* 9-10 (2001) [hereinafter *Nat'l Ctr. For Women and Policing Training Manual*], *available at* http://www.mincava.umn.edu/documents/acquaintsa/participant/drugfacilitated.pdf.

A trauma-informed approach to asking questions during a victim interview also can help the investigator establish trust, which in turn can help the victim feel more comfortable disclosing aspects of the assault that could be difficult or embarrassing to talk about, or which the victim might worry will damage her/his credibility. For example, a victim might be more willing to disclose any voluntary or involuntary alcohol or drug use around the time of the assault if the officer has established a non-judgmental environment and demonstrated genuine empathy for the victim. Although an investigator has to ask questions necessary to corroborate the victim's account, many victims may become upset and frustrated by questions regarding their actions or behavior around the time of the incident, including alcohol or drug use. These questions, depending on how they are phrased, can come across as victim-blaming and can dissuade a victim from assisting with the investigation.[36] An example of how an officer could converse with a victim who might have been drinking or using drugs before s/he was assaulted might be:

- "I know that this question is difficult to answer and I want you to know I am only asking you this question to get a clear picture of what you've experienced. I am very sorry about what has happened to you and I do not think that you are responsible for what happened. Any questions I may ask about alcohol or drug use by you or the offender I'm only asking to understand what happened."

Similarly, officers should not make statements or engage in acts that indicate to the victim that they doubt the victim's credibility, or that otherwise exhibit any bias towards the victim based on gender.[37] Such statements and judgments could include: stereotyped assumptions about the truth of a reported assault (*e.g.,* that women are likely to report "regretted sex" as rape, that transgender women and men are unlikely to be raped, that people engaged in prostitution cannot be raped, or that certain ethnicities or races are more "promiscuous"); automatically believing the alleged assailant's claim that the sex was consensual; or subtly, or even blatantly, coercing the victim to recant the allegation of sexual assault by blaming the victim for being assaulted or for making unwise or dangerous choices.

Further, law enforcement agencies should train officers to write reports of interviews or statements incorporating the victim's words, spontaneous statements, and narrative as much as possible, as opposed to providing the officer's summary. Such an approach will further the goal of presenting the victim's version of the events from the victim's perspective.[38] To ensure privacy and encourage candor, investigations of domestic violence or sexual assault complaints should not be conducted in public waiting areas.

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[36] *See Nat'l Ctr. For Women and Policing Training Manual, supra* 35, at 9-10.

[37] *Missoula MOU, supra* note 29, at 5; *IACP Sexual Assault Incident Reports, supra* note 29, at 3, 7.

[38] *Missoula MOU, supra* note 29, at 7; *IACP Sexual Assault Incident Reports, supra* note 29, at 3; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., *Domestic Violence Concepts and Issues Paper* 3 (2006) [hereinafter *IACP Domestic Violence Issues Paper*], *available at* http://www.ncdsv.org/images/IACP_DVConceptsIssuesPaper_rev6-2006.pdf; Joanne Archambault et al., End Violence Against Women Int'l, *Effective Report Writing: Using the Language of Non-Consensual Sex* 5-13 (2012) [hereinafter *EVAWI Effective Report Writing*], *available at* http://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=43.

Additionally, allowing the victim, if he or she so desires, to have the support of a victim advocate during a criminal investigation has been shown to have a positive impact on the victim's experience with law enforcement.[39] A victim advocate can provide support in several ways, including preparing a victim for law enforcement interviews by helping the victim understand what to expect. This preparation may help the victim to feel at ease during the interview, as well as promote the development of a relationship of trust between the victim and the law enforcement officer. This simple step of encouraging victims to seek support during the criminal investigation process may be critical to an effective victim interview, which in turn could prove important to the investigation, to the prosecution of any crime, and to the victim's continued cooperation with law enforcement.

Finally, to ensure that all individuals are able to communicate the relevant facts clearly, it is important to ensure meaningful language access for individuals with limited English proficiency.[40] Absent exigent circumstances, law enforcement agencies should always use an independent interpreter for interviews, such as someone who works for the agency or a language services interpreter.[41] To ensure independence and accuracy in law enforcement investigations, law enforcement agencies should not use victims' family members and friends as interpreters. Moreover, it is critical that children never be used as interpreters: this undermines effective language access for victims, can traumatize children exposed to these situations and may inhibit a victim from fully revealing important details about the assault.

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[39] Rebecca Campbell, *Rape Survivors' Experiences with the Legal and Medical Systems: Do Rape Victim Advocates Make a Difference?*, 12 Violence Against Women 30, 30 (2006); *Missoula MOU, supra* note 29, at 7; *IACP Sexual Assault Incident Reports, supra* note 29, at 4.

[40] *See* Title VI of the Civil Rights Act of 1964, 42 U.S.C §§ 2000d et seq.; Exec. Order No. 13166, 65 Fed. Reg. 50,121 (Aug. 16, 2000).

[41] *See Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs* 8 & n.1 (August 2011), *available at* http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf (citing Dep't of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455, 41,461 (June 18, 2002)).

Principle 3
Investigate Sexual Assault or Domestic Violence Complaints Thoroughly and Effectively[42]

Unlike many other crimes, incidents of sexual assault and domestic violence frequently occur in more private settings, with few, if any, witnesses present. As a result, it is crucial that LEAs undertake a thorough investigation of these crimes by gathering, preserving and analyzing as much evidence, particularly corroborative evidence, as quickly as they can. The following examples illustrate failures to thoroughly and effectively investigate complaints involving sexual assault and domestic violence:

Example: A 25-year-old woman reports to the police that the previous day, her ex-boyfriend physically and sexually assaulted her. After disclosing to her roommate what had happened, the woman goes to the hospital for a forensic exam and the patrol officer who interviews her takes the kit to an evidence storage facility. A detective calls her a few days later, but, when he does not immediately hear back, he closes the case, noting that the victim cannot be located, is not cooperating and there were no witnesses. The kit is never submitted to the lab for testing and an arrest is never made.

Example: Officers respond to a call for service based on a domestic dispute. When they arrive, they find a man and a woman at the scene. The man is clearly distressed and angry. The woman says the man hit her several times, but says she was not seriously injured. The man says that he and the woman had been on several dates, and he learned tonight that the woman is transgender. The man says that the woman is "crazy" and deceived him by "pretending" to be a woman. The officers leave the apartment without taking a report from the woman because there were no serious injuries; they have some sympathy for the man who feels deceived; and they believe their efforts are better spent on more serious crimes.

Principle in Practice

To ensure that investigations are thorough, law enforcement agencies should implement clear policies and training about how to conduct domestic and sexual violence investigations that are complete and bias-free.[43] At a minimum, law enforcement agencies should have guidelines that address the following for possible crimes involving sexual or domestic violence:[44] collecting and preserving all relevant and corroborative evidence; ensuring that forensic medical exams, including "rape kits," are completed and analyzed in a timely manner; identifying and documenting victim injuries, both at the time of the incident and during subsequent interactions; identifying and documenting all psychological and sensory evidence; and interviewing all possible witnesses and suspects and conducting each interview separately.[45]

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[42] *Missoula FL, supra* note 28, at 7; *NOPD FL, supra* note 28, at 47-50; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 2-3.

[43] *Missoula MOU, supra* note 29, at 4; *NOPD CD, supra* note 33, at 54; *IACP Sexual Assault Incident Reports, supra* note 29, at 7; *see generally IACP Model Policy on Investigating Sexual Assaults, supra* note 29; Police Executive Research Forum, *Improving the Police Response to Sexual Assault* 1-2 (2012) [hereinafter *PERF Improving the Police Response*], *available at* http://www.policeforum.org/assets/docs/Critical_Issues_Series/improving%20the%20police%20response%20to%20sexual%20assault%202012.pdf.

[44] *Missoula MOU, supra* note 29, at 5; *NOPD CD, supra* note 33, at 54-55; Int'l Ass'n of Chiefs of Police, *Model Policy on Domestic Violence* 4 (2006) [hereinafter *IACP Model Policy on Domestic Violence*], *available at* http://www.theiacp.org/Portals/0/documents/pdfs/MembersOnly/DomesticViolencePolicy.pdf.

[45] *NOPD CD, supra* note 33, at 54; *IACP Sexual Assault Incident Reports, supra* note 29, at 7; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 3.

Principle 4
Appropriately Classify Reports of Sexual Assault or Domestic Violence[46]

Complaints of sexual assault and domestic violence should be classified in a manner that will allow them to be fully investigated. If a sexual assault or domestic violence complaint is given an improper or non-criminal classification, the case may be closed before an investigation has been conducted. Like any other allegation of a crime, the determination that a sexual assault or domestic violence complaint is unsubstantiated should be made only after a thorough and full investigation, as discussed in Principle 3, and not presumptively at the classification stage. In order to encourage accurate classification of reports of sexual offenses, officers must be knowledgeable not only about their agency's procedures for documenting such reports, but also about the elements of sexual assault and domestic violence offenses, so that they can better identify incidents that meet those criteria. The following example illustrates how a misclassification of a sexual assault complaint can lead to the failure to properly investigate (and secure a successful prosecution of) the complaint:

Example: A friend brings a woman to a police station and tells the police that her friend was raped while on a date the night before. While still sitting in the public waiting area, an officer asks the woman what happened, and the woman says she does not remember and does not know if she was raped. The law enforcement officer on duty fills out a report, but immediately classifies the incident as "unfounded."

Principle in Practice

Law enforcement agencies should review and revise their policies and procedures as necessary, and provide training to officers to ensure that sexual assault and domestic violence complaints are properly documented and only classified as non-criminal or unfounded after a thorough, full investigation is conducted.[47] All sexual assault or domestic violence complaints should be investigated, regardless of any of the following circumstances: the victim has gaps in memory; there are potential conflicts in the victim's statements; the victim is reluctant to share his or her story; the victim expresses concern over having the alleged assailant charged with a crime; the victim expresses self-blame (*e.g.,* suggests that she/he didn't fight hard enough to stop the assault); the victim is emotionally distraught and unable to discuss the incident; or the victim was under the influence of alcohol or drugs at the time of the incident.[48] [49]

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[46] *Missoula FL, supra* note 28, at 8; *NOPD FL, supra* note 28, at 45-47.

[47] *NOPD CD, supra* note 33, at 54-56; End Violence Against Women Int'l, *Reporting Methods for Sexual Assault Cases* 8, 18 (2007) [hereinafter *EVAWI Sexual Assault Cases*], *available at* https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=35; *EVAWI Training Bulletin, supra* note 29, at 4-5.

[48] *Missoula MOU, supra* note 29, at 7; *IACP Sexual Assault Incident Reports, supra* note 29, at 2, 5; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 2, 4; *EVAWI Sexual Assault Cases, supra* note 47, at 7; *EVAWI Training Bulletin, supra* note 29, at 3.

[49] In conducting a full and thorough investigation, law enforcement officers should engage victims in a trauma-informed manner: officers should be careful to avoid pursuing victims (some of whom may be reluctant to speak to law enforcement) in a way that might "re-traumatize" them. *See supra* note 33.

Additionally, law enforcement should be aware that victims of domestic violence and sexual assault may also be victims of sex trafficking, and officers should receive training on identifying and responding to victims of trafficking. The department offers training and grants to assist law enforcement and community partners in detecting trafficking and providing services to trafficking victims.[50] Law enforcement agencies should also develop policies and procedures regarding U visas, which are available for immigrant victims of certain crimes—including sexual assault and domestic violence—if they assist law enforcement in the investigation or prosecution of criminal activity and meet other eligibility criteria.[51]

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[50] For example, the Department's Bureau of Justice Assistance works collaboratively with the Department's Office for Victims of Crime ("OVC") to develop training for law enforcement and communities to identify trafficking victims and to support anti-trafficking task forces involving collaboration among state and local law enforcement, trafficking victim services providers, federal law enforcement, and U.S. Attorney's Offices. More information about OVC anti-human trafficking efforts is available here: http://ovc.ncjrs.gov/humantrafficking/lawenforcement.html. Information about OVC training and grant opportunities is available at: https://www.ovcttac.gov/views/Resources/dspResources_Org.cfm. The Department's Civil Rights Division Human Trafficking Prosecution Unit (HTPU) also provides advanced capacity-building and training programs on trauma-informed, victim-centered best practices in the investigation and prosecution of human trafficking cases and the stabilization of human trafficking victims. These programs include intensive, week-long, interdisciplinary trainings for law enforcement agents, prosecutors, law enforcement victim-witness coordinators, and non-governmental victim advocates on stabilizing traumatized victims, earning the trust of traumatized victims of labor trafficking and sex trafficking, and overcoming challenges to securing the cooperation of reluctant victims and empowering them to become active participants in the criminal justice process. These programs continue to enhance law enforcement capacity to empower victims of human trafficking—many of whom are women and girls with histories of poverty, dislocation, physical and sexual abuse, and cultural isolation—to report their victimization and play an active role in bringing human traffickers to justice. More information about HTPU is available at: http://www.justice.gov/crt/human-trafficking-prosecution-unit-htpu.

[51] Additional information about the U non-immigrant status (also known as the "U visa") is available at: http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status. Victims of human trafficking also may be eligible for T non-immigrant status. See http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status.

Principle 5
Refer Victims to Appropriate Services[52]

Officers should take steps to address the medical, emotional, safety and other needs of victims of sexual assault and domestic violence at the time they report an incident or make a complaint.

Principle in Practice

Law enforcement officials should make timely and appropriate referrals to medical professionals for victims of sexual assault or domestic violence.[53] Law enforcement policies and trainings should direct officers to, at the earliest point possible, offer to contact a victim advocate and refer victims of sexual assault or domestic violence to resources, such as rape crisis centers, domestic violence shelters or legal services organizations. At a minimum, officers should ensure that victims are aware of these services.[54] It is important for law enforcement to know and have relationships with community-based victim advocacy organizations, including any local culturally-specific organizations or other organizations that focus on underserved or marginalized populations. Law enforcement agencies seeking to identify victim service providers in their jurisdictions should contact their state domestic violence and sexual assault coalitions. Contact information for these organizations is available on the website of the department's office on violence against women at http://www.Justice.Gov/ovw/local-resources.

Principle 6
Properly Identify the Assailant in Domestic Violence Incidents[55]

It is essential that officers are trained to identify the predominant aggressor when responding to domestic violence incidents, and make arrests accordingly. Law enforcement officials should be aware of the potential for abusers to report domestic violence complaints preemptively, claiming that they themselves are the victims of domestic violence. The following example illustrates a failure to pursue information that would help identify the predominant aggressor:

Example: An adult male calls 911 to report that his girlfriend assaulted him. When a police officer arrives, he sees the male caller with a deep scratch on his face. The female, while visibly shaken, appears to be physically unharmed, although she claims that her boyfriend tried to strangle her. Without further inquiry, the police officer files a report, citing the female as the predominant aggressor, and arrests her.

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[52] *Missoula FL, supra* note 28, at 10-11; *NOPD FL, supra* note 28, at 43, 50-51.

[53] *IACP Sexual Assault Incident Reports, supra* note 29, at 4-5; *IACP Model Policy on Investigating Sexual Assaults, supra* note 29, at 2-3.

[54] *NOPD CD, supra* note 33, at 55.

[55] *NOPD FL, supra* note 28, at 48.

Principle in Practice

Law enforcement agencies should review and revise their policies and procedures as necessary, and provide specialized training to ensure that officers are capable of properly identifying the predominant aggressor.[56] Specifically, officers should be trained to consider and balance the following factors, among others, to determine whose account is corroborated by the evidence, but without relying on any one of these factors alone as determinative:[57]

- A documented or undocumented history of domestic violence;
- Whether a party to the incident may have a motivation to be untruthful;
- Whether someone may have been injured as a result of the other person engaging in self-defense;
- The existence of past or present protective orders; and
- Criminal histories involving violence to others.

There may be instances where law enforcement officers respond to reports of sexual assault or domestic violence and find that they are unable to communicate with both parties. This may be because one party does not speak or understand English proficiently, or because one party has a hearing or speech disability. In these circumstances, officers should ensure that they are able to adequately communicate with both parties before determining the predominant aggressor.

Law enforcement agencies also should discourage dual arrests in domestic violence cases, wherever feasible as well as issue policies that delineate the limited circumstances under which dual arrests are permissible.[58] Arresting the wrong party or both parties increases the likelihood that the offender will act again, and discourages the victim from reporting future incidents. Further, dual arrests often result in children being taken into the custody of child protective services and may diminish children's trust in law enforcement.

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[56] *NOPD CD, supra* note 33, at 58.

[57] *IACP Domestic Violence Issues Paper, supra* note 38, at 4-5.

[58] *NOPD CD, supra* note 33, at 58; *IACP Domestic Violence Issues Paper, supra* note 38, at 4; *IACP Model Policy on Domestic Violence, supra* note 29 at 5; Barbara J. Hart, *Arrest: What's the Big Deal*, 3 Wm. & Mary J. Women & L. 207, 207-210 (1997) (noting the importance of first responders being cognizant of the goals of domestic violence intervention because their perspective will influence all major decisions, including whether to arrest one or both parties).

Princple 7
Hold Officers Who Commit Sexual Assault or Domestic Violence Accountable[59]

Law enforcement agencies strive to be seen by their communities as credible and legitimate authorities in enforcing the law and protecting public safety. If a law enforcement agency does not fully investigate reports of sexual assault, sexual misconduct and domestic violence perpetrated by its own officers, or fails to appropriately discipline officers when those allegations are substantiated, the legitimacy of that law enforcement agency may be called into question. This, in turn, may make victims more reluctant to report crimes of sexual assault and domestic violence, which undermines public safety by increasing the risk of future harm from offenders who are not held accountable by the criminal justice system.

Principle in Practice

To maintain public confidence, law enforcement agencies should develop policies and practices aimed at preventing and addressing on-duty sexual harassment and assault of members of the public by law enforcement officers. These policies should provide that, at a minimum, the agency will open an internal investigation whenever an allegation is made that an officer has engaged in sexual abuse, sexual misconduct or domestic violence, irrespective of whether the officer was acting in his or her official capacity at the time.[60] In addition to opening an internal investigation, law enforcement agencies should refer allegations of officer misconduct involving potential criminal activity to the local prosecutor's office.[61]

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[59] *NOPD FL, supra* note 28, at 92; Int'l Ass'n of Chiefs of Police, *Model Policy on Domestic Violence by Police Officers* 1 (2003) [hereinafter *IACP Model Policy on Domestic Violence by Police Officers*], *available at* http://www.theiacp.org/Portals/0/documents/pdfs/MembersOnly/DomesticViolencebyPolicePolicy.pdf.

[60] *IACP Model Policy on Domestic Violence by Police Officers, supra* note 59, at 2-3; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., *Domestic Violence by Police Officers Concepts and Issues Paper* 2, 6-7 (2003) [hereinafter *IACP Domestic Violence by Police Officers Issues Paper*], *available at* http://www.theiacp.org/Portals/0/documents/pdfs/MembersOnly/DomesticViolencebyPolicePaper.pdf.

[61] *NOPD CD, supra* note 33, at 101-102; *IACP Model Policy on Domestic Violence by Police Officers, supra* note 59, at 3, 7; *IACP Domestic Violence by Police Officers Issues Paper, supra* note 60, at 5, 9.

Prinicple 8
Main, Review and Act Upon Data Regarding Sexual Assault and Domestice Violence

Some law enforcement agencies may be under-investigating sexual assault or domestic violence reports without being aware of the pattern. For instance, in most jurisdictions, the reported rate of sexual assaults typically exceeds the homicide rate.[62] If homicides exceed sexual assaults in a particular jurisdiction, this may be an indication that the agency is misclassifying or under-investigating incidents of sexual assault. Similarly, studies indicate that almost two-thirds to three-quarters of domestic violence incidents would be properly classified as "assaults" in law enforcement incident reports.[63] Therefore, if the ratio of arrest reports for lesser offenses (e.g., disorderly conduct) is significantly greater than that for assaults, this may indicate that law enforcement officers are not correctly identifying the underlying behavior – i.e., they are classifying serious domestic violence incidents as less serious infractions, such as disorderly conduct.[64]

Principle in Practice

Law enforcement agencies should assess whether their jurisdictions are under-investigating sexual assault and domestic violence reports by examining their own jurisdiction's crime statistics, including statistics on other violent crimes in that jurisdiction.[65] Law enforcement agencies should gather and maintain accurate data on sexual assault and domestic violence reports in order to conduct such diagnostic reviews.[66] Law enforcement agencies also should analyze such data in order to identify trends in the rates of sexual assault and domestic violence in their communities, to assess the effectiveness of their response to these crimes, and to make decisions about their response to and investigation of these crimes. For example, a law enforcement agency might rely on data on sexual assault and domestic violence reports to determine whether it has an appropriate number of officers assigned to handle crimes of sexual assault and domestic violence and to determine the appropriate level of specialized training about sexual assault and domestic violence for its officers. Collecting, analyzing and acting upon data is key to ensuring that law enforcement agencies are operating lawfully and effectively.

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[62] FBI Crime in the United States 2013, Uniform Crime Reports online Table 7, available at http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/7tabledatadecpdf/table_7_offense_analysis_united_states_2009-2013.xls (last visited Oct. 2, 2015) (showing that for 2013, there were 14,196 murders nationwide; by comparison, there were 108,612 rapes); FBI, Crime in the United States 2013, Uniform Crime Reports online Table 16, available at http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-16/table_16_rate_by_population_group_2013.xls (showing that in 2013, the rate of murder and nonnegligent manslaughter per 100,000 inhabitants was 4.6, while the rate of rape per 100,000 inhabitants was 39.8).

[63] Klein, *supra* note 22, at 9 (citing multiple studies).

[64] *Id*.

[65] *NOPD CD, supra* note 33, at 54-60.

[66] *Missoula MOU, supra* note 29, at 10-11; *NOPD CD, supra* note 33, at 57; *IACP Model Policy on Domestic Violence, supra* note 44, at 2-3.

III. Relevant Federal Law

Gender bias in the law enforcement response to sexual assault and domestic violence can make it more difficult to determine whether a crime occurred and more difficult to hold perpetrators accountable. While many in law enforcement are effectively conducting such investigations, by identifying practices that may reflect or contribute to gender bias in policing, and describing a set of basic principles that can help to prevent such bias, this guidance is intended to help LEAs improve their ability to effectively address sexual assault and domestic violence. Moreover, as laid out below, the U.S. Constitution and various federal laws prohibit law enforcement agencies from discriminating – including on the basis of gender – in the discharge of their duties. The department outlines these legal principles to help LEAs further understand the source of their duty to eliminate policing practices that may be biased. LEAs that integrate the basic principles described in this guidance into their policies, trainings and practices will be able to respond to allegations of sexual assault and domestic violence more effectively and will more readily fulfill their own legal obligations.

U.S. Constitution

The Equal Protection Clause of the U.S. Constitution prohibits discriminatory enforcement of the law.[67] Discriminatory policing occurs when police officers and departments selectively enforce the law—or fail to enforce the law—based on characteristics such as race, color, national origin, sex or religion.[68] Denying police services to some persons or communities due to bias or stereotypes related to these characteristics is a form of discriminatory policing. According to the Supreme Court, the 14th Amendment "prohibits the states from denying to all persons within its jurisdiction the equal protection of the laws. Denying includes inaction as well as action, and denying the equal protection of the laws includes the omission to protect."[69] Many courts have extended this principle to a law enforcement agency's under-enforcement of crimes that disproportionately affect women, where it is established that the agency has a policy, practice or custom of intentionally providing

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[67] *Whren v. United States*, 517 U.S. 806, 813 (1996) (noting that the Equal Protection Clause is the constitutional basis for objecting to intentionally discriminatory applications of the law); *DeShaney v. Winnebago County Dep't of Social Servs.*, 489 U.S. 189, 197 n. 3 (1989) (noting that, pursuant to the Equal Protection Clause, state executive and law enforcement officials may not "selectively deny . . . protective services to certain disfavored minorities."); *Elliot-Park v. Manglona*, 592 F.3d 1003, 1007 (9th Cir. 2010) (Equal Protection Clause prohibits law enforcement from intentionally discriminating in the provision of any services to any degree) (9th Cir. 2010); *Estate of Macias v. Ihde*, 219 F.3d 1018, 1019, 1028 (9th Cir. 2000) (in case alleging "inferior police protection on account of status as a woman, a Latina, and a victim of domestic violence," holding that there is an equal protection right to have law enforcement services administered in a nondiscriminatory manner); *Pariseau v. City of Brockton*, 135 F. Supp. 2d 257, 262 (D. Mass. 2001) ("[A]lthough there is no constitutional right to police protection, law enforcement officials may not selectively deny protective services based on such invidious classifications as race, gender and religion.") (citing *Hayden v. Grayson*, 134 F.3d 449, 452, 453 n. 3 (1st Cir.1998)).

[68] *Id.*

[69] *Bell v. Maryland*, 378 U.S. 266, 310 n. 31 (1964) (Goldberg, J., concurring) (internal citation omitted).

unequal protection to community members on the basis of sex, in the form of failing to respond with equal effort to victims of those crimes than to victims of other comparable crimes.[70]

The Due Process Clause of the U.S. Constitution also prohibits discriminatory policing. Due Process violations occur when law enforcements' affirmative conduct creates or increases the risk of private violence, which increases the danger to the victim.[71]

Safe Streets Act – 42 U.S.C. § 3789d

Discriminatory policing also is prohibited under the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), which provides that "[n]o person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in

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[70] In evaluating equal protection claims regarding under-enforcement of crimes that disproportionately affect women, courts consider whether: (1) the jurisdiction has a policy or custom of providing less protection to victims of those crimes than they do to other crimes; (2) whether gender discrimination was a motivating factor in providing less protection; and (3) whether the policy or practice caused the plaintiff injury. *See, e.g., Soto v. Flores*, 103 F.3d 1056, 1066 (1st Cir. 1997); *Watson v. City of Kansas City*, 857 F.2d 690 (10th Cir. 1988); *Hynson v. City of Chester*, 864 F.2d 1026, 1031 (3rd Cir. 1988). Importantly, a discriminatory purpose need not be the only motivation for an agency's policy or practice. *Vill. Of Arlington Heights v. Metro Hous. Dev. Corp.*, 429 U.S. 252, 265-66 (1977). Courts will consider the totality of the circumstances and consider factors that indirectly indicate an intent to discriminate, including discriminatory impact. *Id.* Certain contemporaneous actions or statements by police officers may be sufficient to establish discriminatory intent. *See, e.g., Balistreri v. Pacifica Police Dep't.*, 901 F.2d 696, 701 (9th Cir. 1990) (finding officer's alleged statement, that he did not blame plaintiff's husband for hitting her because she was "carrying on," strongly suggested discriminatory intent and an animus towards abused women).

[71] *See, e.g., Okin v. Vill. of Cornwall-On-Hudson Police Dep't*, 577 F.3d 415, 429-430 (2d Cir. 2009) (finding that a reasonable fact-finder could infer that the police affirmatively encouraged a man's domestic violence when police engaged in casual, friendly conversation with the alleged abuser during their response to the victim's complaint, and otherwise communicated that the alleged abuser's conduct would go punished); *Phillips v. County of Allegheny,* 515 F.3d 224, 236-237 (3d Cir. 2008) (police providing individual with confidential information that permits that individual to harm another may give rise to a due process violation under the "state-harm" doctrine); *Freeman v. Ferguson*, 911 F.2d 52, 54-55 (8th Cir. 1990) (noting that there is a "possibility that a constitutional duty to protect an individual against private violence may exist[s] in a non-custodial setting if the state has taken affirmative action which increases the individual's danger of, or vulnerability to, such violence beyond the level it would have been at absent state action").; *Smith v. City of Elyria*, 857 F. Supp. 1203, 1210 (N.D. Ohio 1994) (finding facts sufficient to support a due process claim, where, among other things, police officers responding to domestic abuse call told the alleged abuser to throw his clothing back inside the house if the alleged victim threw it out).

part with funds made available under this chapter." [72] The implementing regulation of the Safe Streets Act prohibits program recipients from "utiliz[ing] criteria or methods of administration which *have the effect* of subjecting individuals to discrimination." [73] When a law enforcement agency's handling of sexual assault or domestic violence cases has an unnecessary disparate impact on women, it violates the Safe Streets Act and its implementing regulations, even where the discrimination is not intentional, unless the agency can show that the discriminatory impact is necessitated by some legitimate law enforcement or other purpose.

Violent Crime Control and Law Enforcement Act of 1994 - 42 U.S.C. § 14141

The Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 prohibits law enforcement officers from engaging in a pattern or practice of policing that violates either the Constitution or federal laws. Under Section 14141, it is unlawful for law enforcement agencies, including prosecutorial offices, to violate the Constitution or any other federal statute, including, for example, the Civil Rights Act of 1964 and the Americans with Disabilities Act.

Violence Against Women Reauthorization Act of 2013 – Pub. L. No. 113-4

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) expanded prior federal law addressing domestic violence, dating violence, sexual assault and stalking. VAWA 2013 reauthorizes critical grant programs created by the original Violence Against Women Act and subsequent legislation, establishes new programs and strengthens civil rights protections. As a result of VAWA 2013, VAWA grants now contain a condition that prohibits discrimination in any program or activity funded in whole or in part with funds made available under VAWA, or other funds administered by the Office on Violence Against Women, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation or disability. 42 U.S.C. § 13925(b)(13).

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[72] 42 U.S.C. § 3789d(c)(1) (2006).

[73] 28 C.F.R. § 42.203(e) (2012) (emphasis added). *See also United States v. Virginia*, 620 F.2d 1018, 1024 (4th Cir. 1980) (Safe Streets Act requires showing that defendants' discriminatory employment practices had an adverse impact on female job applicants, not proof of intentional discrimination, before defendants must demonstrate the challenged practices have a necessary relationship to the job).

IV. Additional Resources

The department has additional resources to further guide law enforcement agencies' responses to reports of sexual assault and domestic violence in the attached appendix, as well as on its website at www.justice.gov-/ovw/identifying-and-preventing-gender-bias. These materials include: guidance setting forth best practices on law enforcement responses to sexual assault and domestic violence from national law enforcement and prosecutors' associations; technical assistance documents developed by the department and its grantees about sexual assault, domestic violence, and trafficking in persons; letters of findings that the department has issued after conducting civil rights investigations of law enforcement agencies, whose policing practices were affected by gender bias; negotiated agreements that have resulted from these civil rights investigations; and a sample memorandum of understanding from the White House Task Force to Protect Students from Sexual Assault, aimed at preventing and responding effectively to sexual assaults at colleges and universities. These resources also contain sources for training opportunities for local law enforcement staff. Law enforcement agencies who desire additional technical assistance on how to eradicate gender bias in law enforcement should contact the Office on Violence Against Women by phone at (202) 307-6026 or email at ovw.info@usdoj.gov.

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For ease of further dissemination, this guidance is available at the following website link: www.justice.gov-/ovw/identifying-and-preventing-gender-bias

About the COPS Office

The Office of Community Oriented Policing Services (COPS Office) is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

Community policing begins with a commitment to building trust and mutual respect between police and communities. It supports public safety by encouraging all stakeholders to work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.

Rather than simply responding to crime, community policing focuses on preventing it through strategic problem solving approaches based on collaboration. The COPS Office awards grants to hire community police and support the development and testing of innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.

Another source of COPS Office assistance is the Collaborative Reform Initiative for Technical Assistance (CRI-TA). Developed to advance community policing and ensure constitutional practices, CRI-TA is an independent, objective process for organizational transformation. It provides recommendations based on expert analysis of policies, practices, training, tactics, and accountability methods related to issues of concern.

Since 1994, the COPS Office has invested more than $14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.

- To date, the COPS Office has funded the hiring of approximately 127,000 additional officers by more than 13,000 of the nation's 18,000 law enforcement agencies in both small and large jurisdictions.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- To date, the COPS Office has distributed more than eight million topic-specific publications, training curricula, white papers, and resource CDs.
- The COPS Office also sponsors conferences, roundtables, and other forums focused on issues critical to law enforcement.

The COPS Office information resources, covering a wide range of community policing topics—from school and campus safety to gang violence—can be downloaded at www.cops.usdoj.gov. This website is also the grant application portal, providing access to online application forms.

Women and LGBT individuals are disproportionately victimized by sexual assault and domestic violence, and underenforcement of such offenses can reflect bias on the part of law enforcement. This publication summarizes the August 4, 2015 roundtable discussion of the guidance provided in a draft version of the U.S. Department of Justice's *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*. This summary of the roundtable reflects the opinions and recommendations of the law enforcement officials, victim advocates, and subject matter experts who attended.

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Visit the COPS Office online at **www.cops.usdoj.gov**.

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