

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

Statement of Purpose

The Department of Justice (Department) is committed to assisting law enforcement agencies (LEA) in their efforts to combat sexual assault, domestic violence, and other forms of gender-based violence. Through the Department's partnerships with state, local, tribal, territorial, and university LEAs, and the Department's own law enforcement components, the Department recognizes that law enforcement officers (LEOs) at all ranks are striving to improve their response to reports of these crimes and seeking assistance and support for their efforts.

Gender-based violence is violence and other harmful acts directed at an individual because of gender, which includes biological or perceived gender, sexual orientation, gender identity, and intersex traits. Gender-based violence is rooted in gender inequality, and perpetrators use violence to exert power and control over their victims. Examples include domestic violence, dating violence, sexual assault, stalking, sexual harassment, and gender-based hate crimes. While this guidance focuses on domestic violence and sexual assault, reducing gender bias in these areas will improve law enforcement responses to other forms of gender-based violence.

Recognizing and mitigating instances of bias in the law enforcement response to sexual assault, domestic violence, and other forms of gender-based violence is critical to LEAs' ability to protect and serve their communities and enhance public trust. Too often and for too long, gender bias within the justice system has thwarted investigations, caused further harm to victims, and allowed perpetrators to evade accountability and continue to commit crimes. For these reasons, this guidance provides LEAs with principles with which they can align their policies, practices, and training so that gender bias and other types of bias do not undermine justice in cases involving domestic violence and sexual assault, including those perpetrated by LEOs. Additional resources accompanying this guidance can help LEAs put these principles into practice.

What is Gender-based Violence?

According to the White House's National Strategy on Gender Equity and Equality, "gender-based violence can take many forms, and it is rooted in structural gender inequalities and power imbalances. It includes the use or threat of physical violence and coercive control toward an intimate partner (including domestic and dating violence), sexual assault, and stalking. Gender-based violence also includes human trafficking, online abuse and harassment, and child sexual abuse."

This guidance is intended to reflect and advance the Department’s partnership with the police leaders, line officers, detectives, and other law enforcement personnel who work tirelessly to ensure that policing is bias-free, and to uphold the civil and human rights in the communities that they serve.¹ The Department extends its appreciation to the many police leaders, victim and community advocates, and other experts who worked with us helped to develop the original guidance in 2015 and have provided insights to inform this updated edition.² Furthermore, the Department recognizes that LEOs at all ranks, in communities across the country, work tirelessly to ensure safety and justice for victims of sexual assault and domestic violence.

Addressing gender bias in policing is essential because LEOs frequently have the initial contact with victims, and LEAs generally conduct the investigations of sexual assault and domestic violence incidents. Gender bias, whether explicit or implicit, conscious or unconscious, may contribute to LEOs failing to conduct thorough investigations of reported crimes; misclassifying cases as unfounded or wrongly clearing them by exceptional means; failing to submit sexual assault kits for testing; interrogating rather than interviewing victims and witnesses; treating domestic violence as a family matter rather than a crime; failing to enforce protection orders; failing to treat same-sex domestic violence or violence against people engaged in sex trade as a crime; or treating people as criminals, rather than victims of abuse or sex trafficking.

Gender bias in policing may also include engaging in, or failing to prevent, detect, and respond to, sexual or gender-based harassment, abuse, or assault of community members by members of law enforcement. Like employers and schools, LEAs have a responsibility to prevent, detect, and respond to these forms of misconduct and violence. Failing to do so may itself constitute gender bias on the part of the agency.

What is Bias?

A bias is a tendency, inclination, or prejudice toward or against people or groups, often based on stereotypes or assumptions. Biases are part of the human condition, and affect everyone. Bias can be implicit, meaning the person who holds the bias is not aware of it; or bias can be explicit, meaning it is expressed intentionally.

Bias and discrimination in law enforcement responses to sexual assault and domestic violence may result in LEAs providing less protection to certain victims and failing to respond effectively to these crimes.

Bias can affect how officers treat people and make decisions. It can also be reflected more broadly in the way agencies operate, manifesting in policies and procedures or lack thereof; and in resource allocation, such as when investigators who handle sexual assault cases manage significantly larger caseloads than investigators who handle narcotics or burglary cases.

When bias compromises policing it is a form of discrimination. It may result in LEAs providing less protection to, and less access to services for, certain victims on the basis of sex, race, color, national origin, gender identity, sexual orientation, disability, familial status, pregnancy status, or other characteristics about the person or groups to which they belong.

The response to sexual assault and domestic violence affects victim and community safety. If gender bias influences LEAs' initial response to or investigation of an incident, it may result in LEAs providing less protection to certain victims on the basis of gender. It may also compromise law enforcement's ability to ascertain facts, determine whether an incident was a crime, and develop a case that supports effective prosecution and holds the perpetrator(s) accountable. Sexual and domestic violence can co-occur with other crimes and may be committed by justice-involved people who—absent intervention or interruption—may continue to use violence.

Bias based on gender can occur alongside other types of bias—including bias based on race, color, national origin, sexual orientation, gender identity, disability, familial status, pregnancy status, or religion—exacerbating any deficiencies in the criminal justice system's response to reports of violence and further undermining access to safety for those victims. For example, racial and gender bias may occur when officers respond in an inappropriate and discriminatory manner toward domestic violence victims who are women of color, such as failing to treat them as victims in cases involving self-defense.³ Similarly, bias based on race and gender identity might manifest in officers assuming that Black transgender victims are engaged in criminal activity when they report sexual violence. Biases based on various identities can intersect to cause discriminatory treatment of particular subgroups of victims, causing variations in how victims of gender-based violence approach and view law enforcement, and can result in underreporting of crime.

This guidance does not address all forms of gender bias, or other intersecting biases, that may arise in policing or in the justice system more broadly. Applicable civil rights laws prohibit discrimination based on a variety of protected classifications, much of which is outside the scope of this guidance. The Department has provided other guidance addressing some of these issues, and some of the principles and best practices identified in this guidance can and should be applied to other aspects of LEAs' day-to-day processes.⁴

The purpose of this guidance is to—

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

The Department encourages LEAs to consider these principles and integrate them into—

- clear, unequivocal stand-alone policies about the proper handling of sexual assault and domestic violence crimes, including when those offenses are perpetrated by LEOs;
- training for officers about these policies and about effective responses to sexual assault and domestic violence, more generally; and
- supervision protocols and systems of accountability to ensure that officers responding to reports of sexual assault and domestic violence act in accordance with these policies and trainings.

Resulting policies, training, and supervision protocols should reflect a victim-centered and trauma-informed approach that strives to recognize and meet the needs of victims from all communities.

Alongside the Department's other work in this area, including the provision of funding and technical assistance to state, local, tribal, and territorial LEAs, this document provides guidance to agencies as they develop more effective policies, practices, and trainings. The Department has additional resources to further assist LEAs in improving their response to victims of sexual assault and domestic violence. These resources are presented at:

<https://www.justice.gov/ovw/policing-guidance-resource-list>.

Background

Gender-based violence, including sexual assault and domestic violence, are crimes that disproportionately harm women and girls,⁵ and lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) individuals in the United States. Certain populations suffer higher rates of sexual assault and domestic violence than the general population and face greater barriers to safety and justice. For example:

- Nearly one in five women in the United States has been the victim of a completed or attempted rape.⁶
- Approximately one in four women and one in seven men in the United States have suffered severe physical violence at the hands of an intimate partner.⁷
- Forty-four percent of lesbian women and 61 percent of bisexual women have suffered rape, physical violence, and/or stalking by an intimate partner, compared to 35 percent of heterosexual women.⁸ Twenty-six percent of gay men and 37 percent of bisexual men have suffered rape, physical violence, and/or stalking by an intimate partner.⁹
- More than half of American Indian and Alaska Native women have suffered sexual violence at some point in their lives, and more than half have suffered physical violence by an intimate partner.¹⁰
- Women and girls from lower income households and rural areas face some of the highest rates of sexual violence.¹¹

- Non-Hispanic Black and American Indian or Alaska Native women experience the highest rates of homicide, and more than half of these homicides are related to intimate partner violence.¹²
- Women who are immigrants face greater barriers to seeking help when they are victimized by intimate partner violence.¹³
- The rate of violent victimization against people with disabilities is at least 2.5 times the rate for people without disabilities.¹⁴ Additionally, people with intellectual disabilities are sexually assaulted at a rate seven times higher than that of people without disabilities, according to an analysis of Justice Department data.¹⁵
- An estimated 86 percent of women who have served a jail sentence have suffered sexual violence at some point during their lives, and 77 percent have suffered violence by an intimate partner.¹⁶
- While there is a lack of data on the violence suffered by transgender people, community-based studies indicate high levels of victimization,¹⁷ and research estimates that transgender people are 2.5 times more likely than cisgender people to suffer sexual violence during their lives.¹⁸

The Violence Against Women Act (VAWA) was passed in 1994 to improve how communities respond to domestic violence and sexual assault. In the over 25 years since VAWA’s passage, justice professionals, victim advocates, healthcare providers, and others have worked together to combat these crimes, establishing model approaches and proven strategies for assisting victims and holding offenders accountable. Yet, despite this progress, domestic violence still occurs at alarming rates and too often becomes lethal. One in four homicides in the United States is related to domestic violence, and the use of a gun in domestic violence incidents increases the risk of multiple fatalities.¹⁹ In addition, an analysis of Federal Bureau of Investigation (FBI) data found that fatal domestic violence shootings increased by 26 percent between 2010 and 2017.²⁰ Further, sexual assault remains the most underreported violent crime by a significant margin: in 2020, only about 23 percent of sexual assaults were reported to police.²¹

Over the past decade, the criminal justice community has considered the implications of social science research showing that “implicit biases are predilections held by all [people] that operate largely outside of one’s awareness,” but can influence behavior.^a Research has identified risk factors that make implicit bias more likely to result in discriminatory policing.^b

^a Gove, T. G. (2011). *Implicit bias and law enforcement*, The Police Chief, 44. Alexandria, VA: The International Association of Chiefs of Police.

^b Swencionis, J. K., & Goff, P. A. (2017). *The psychological science of racial bias and policing*. *Psychology, Public Policy, and Law*, 23(4), 398–409. <https://doi.org/10.1037/law0000130>.

To address these persistent problems, LEAs must investigate these crimes thoroughly and with the same vigor and skill as they do other crimes. By using thorough and effective investigative

techniques, LEAs can continue to improve their efforts to ensure that the perpetrators of these crimes are held accountable, victims receive meaningful access to justice, and communities experience greater safety.

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

Identifying the Impact of Gender Bias on Policing

Explicit and implicit biases—including stereotypes about gender roles, people or communities based on race, gender-based violence, and particular crime victims—are embedded in our society and affect everyone.²² With respect to policing, these biases may affect LEOs' perceptions of sexual assault and domestic violence incidents and prevent them from effectively handling reports of these crimes.²³

The intersection of stereotypes and biases about gender, race, sexual orientation, national origin, age, disability, involvement in the sex trade, and other aspects of people's lives and identities can also pose challenges when people seek law enforcement services after a sexual assault or domestic violence incident.²⁴ Acting on stereotypes about why people are sexually assaulted, or about how a victim should look or behave, can constitute unlawful discrimination and profoundly undermine an effective response to these crimes. For example, if a male 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 because of stereotypical assumptions about victims who are gay or lesbian assaulted by their partners, or because the officer relates more to the perpetrator than the victim, that is gender bias and may lead to unlawful discrimination.

Even where LEOs harbor no explicit biases or stereotypes, an officer's unconscious bias towards these specific groups can undermine an effective response to sexual assault and domestic violence. 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 LEA response to crimes involving sexual assault and domestic violence.

Preventing gender bias in policing practices is an integral part of combating sexual assault and domestic violence, and it can have a real and immediate effect on the safety of individual victims and communities at large. Appropriate criminal justice responses, including arresting offenders when probable cause exists that a crime has been committed, can prevent future victimization.²⁵ Testing sexual assault kits—a key investigatory step—can identify serial offenders who will continue to victimize people until they are stopped.²⁶ Patrol officers can also take measures short of arrest

The Department of Justice's 2017 guide, [Best Practices for Sexual Assault Kits: A Multidisciplinary Approach](#), contains recommendations for collecting evidence during a sexual assault medical forensic exam; investigating sexual assault; storing, maintaining, tracking, and processing evidence; and communicating with victims.

to help victims achieve safety, such as providing them with access to services through transportation and referrals to service providers.²⁷ Further, an appropriate justice system response can foster victims' confidence in the justice system overall and may make victims more likely to report future incidents and crime in general.²⁸

By contrast, if LEOs do not respond effectively to an incident of sexual assault or domestic violence, victims may be less likely to participate in the investigation and prosecution of their cases or seek law enforcement protection or assistance in the future.²⁹ This phenomenon may be intensified in communities that have disproportionately experienced inadequate police responses to domestic violence or sexual assault.

Moreover, an effective police response to sexual assault and domestic violence can improve safety throughout communities. Reducing domestic violence-related homicides also reduces collateral homicides of children, other family members, and responding LEOs, while also reducing abuser suicides.³⁰ Because some people endure violence and abuse for a long time before reporting to police, a full investigation of a particular domestic violence incident may reveal additional and more serious prior incidents of abuse.³¹

Key Resources

The International Association of Chiefs of Police (IACP) provides resources for LEAs on investigating sexual assault and domestic violence, such as Sexual Assault Incident Reports: Investigative Strategies, which contains guidelines for preparing sexual assault cases for prosecution:

<https://www.theiacp.org/sites/default/files/all/s/SexualAssaultGuidelines.pdf>.

IACP's Police Response to Violence Against Women Library contains tools, resources, and policies to assist law enforcement in responding effectively to sexual assault, domestic violence, stalking, officer-perpetrated offenses, strangulation, and trafficking:

<https://www.theiacp.org/projects/police-response-to-violence-against-women-vaw>.

End Violence Against Women International (EVAWI) provides a resource library with training, tools, briefs, and other resources, including a training bulletin series on Gender Bias in Sexual Assault Response and Investigation: <https://evawintl.org/wp-content/uploads/TB-Gender-Bias-1-4-Combined.pdf>.

The Police Executive Research Forum (PERF) published the Executive Guidebook: Practical Approaches for Strengthening Law Enforcement's Response to Sexual Assault in 2018 to identify concrete strategies for implementing the principles outlined in this guidance: <https://www.policeforum.org/assets/SexualAssaultResponseExecutiveGuidebook.pdf>.

Vigilant police investigation of sexual assault and domestic violence and the necessary resources to support these investigations may help prevent other violent crimes.³² Detroit's experience of finding more than 11,000 untested sexual assault kits in 2009 and endeavoring to test them all illustrates the vital importance of fully investigating every reported sexual assault, regardless of how a victim's credibility was first assessed by LEOs.³³ When just 1,595 of Detroit's 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 cases).³⁴ In short, the DNA from these untested kits belonged to offenders who had committed other crimes, including multiple other sexual assaults.³⁵ Efforts to test large volumes of previously unsubmitted sexual assault kits in other jurisdictions have also led to the identification of serial assailants.³⁶

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 basic principles that help to reduce the potential for discrimination. The Department encourages LEAs to consider these principles and integrate them into: (1) clear, unequivocal stand-alone policies about the proper handling of sexual assault and domestic violence crimes, including offenses perpetrated by LEOs; (2) training for officers about these policies and about effective responses to sexual assault and domestic violence more generally; and (3) supervision protocols and systems of accountability to ensure that officers responding to sexual assault and domestic violence 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 their policing activities. Rather, adherence to these basic principles in developing policies, practices, and trainings related to sexual assault and domestic violence will help LEAs provide police services free from discrimination on the basis of gender, and therefore 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 through training, technical assistance, and dissemination of promising practices.

Principle 1: Recognize and Address Biases, Assumptions, and Stereotypes about Victims

When myths and misperceptions about sexual assault and domestic violence influence law enforcement's response, LEOs can blame victims and fail to hold offenders accountable.³⁷

In responding to a report of sexual assault or domestic violence, LEOs should be careful to ensure they do not base their judgments about the credibility of a victim's account on assumptions or stereotypes about the "types" of people who can be victims or how victims "should" respond or behave. Officers should be particularly vigilant about not responding differently to victims based on biases about particular subgroups of victims, such as victims of color, victims who have limited English proficiency, victims who are LGBTQI+, victims with criminal histories, or victims with disabilities. The following examples³⁸ illustrate how assumptions or stereotypes can influence how an LEO gauges a victim's credibility, thereby undermining an effective investigation and discouraging the victim from reporting and participating in an investigation:

- *A young white woman enters a police station and reports that, 2 weeks earlier, she was raped at a house party by a colleague from work. The woman reports that she and the person who she says raped her had been drinking that evening. The police officer on duty asks how often the woman drinks excessively at house parties, and what she was wearing that night. The officer then tells her that she should really watch how much alcohol she consumes when she goes out at night, especially if she is getting dressed up.*
- *A tall Black 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 texts and voice messages over the past several weeks. The man further reports that his boyfriend assaulted him the night before. 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 information. 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.*
- *A woman who has been known to engage in the commercial sex trade 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 criminal history.*
- *A woman serving a prison sentence reports to law enforcement that a corrections officer sexually assaulted her while she was in isolation due to COVID-19. She saved the sheet on which the corrections officer ejaculated because she believes she will be discredited due to her custody status. The responding investigator tells the woman that her account makes no sense, and he does not know why she bothered saving the sheet.*
- *A woman reports that, while being transported to jail for a DUI arrest, the officer pulled over and put his mouth on her breasts, fondled her, and took a picture of her bare*

breasts with his cell phone. During a recorded interview of the woman, the investigator (who was the supervisor of the subject officer) lied about the state of the evidence, threatened to charge her with “slander,” and accused her of ruining a young officer’s career.

Principle in Practice

LEAs should review and revise their policies and procedures, as necessary, and provide training to ensure that responding officers and investigators gather all pertinent evidence in an unbiased manner. A victim’s nonconformity with behavioral stereotypes should not impact the way LEOs evaluate the complaint.³⁹ Biases and stereotypes should also not prevent officers from taking a report or collecting potential evidence, or detectives from conducting a full investigation of all complaints received.⁴⁰ 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 engaging in the commercial sex trade; knowledge or suspicion that the victim has a mental illness; evidence that the victim has a history of abusing alcohol or drugs; the victim’s race, ethnicity, or immigration status; what the victim was wearing at the time of the victimization; whether the victim is of comparable size or strength to the assailant; the lack of any visible 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.⁴¹

Bad Practice Example	Good Practice Example
<p>A woman who has a protection order against her ex-boyfriend calls the police to report that the ex-boyfriend is stalking her and she is increasingly afraid of him. She reports that he recently texted her a picture of a firearm and she believes he broke into her home while she was at work and went through her belongings. An officer comes to the woman’s home and, guessing that the woman is transgender based on her appearance, asks her if she really needs the police to get involved in “breakup drama” and says, “Can’t you guys just work this out on your own?”</p>	<p>When a self-identified transgender woman reports to police that her ex-boyfriend, against whom she has a protection order, has been stalking her, officers respond in accordance with their LEA’s policies and procedures for handling domestic violence and protection order violations. They gather evidence, including digital evidence from the woman’s cell phone. The police report quotes the woman’s account of what has happened and why she is afraid. The investigation establishes probable cause to arrest the woman’s ex-boyfriend. Officers provide the woman with the same referrals to victim services providers that they offer to other domestic violence victims, but—if available in the region—they also provide information about organizations that are operated by and specifically for members of the LGBTQI+ community.</p>

Bad Practice Example	Good Practice Example
<p>A young Black woman reports that she was sexually assaulted by her boyfriend two weeks ago. When interviewing her, the detective asks why she “waited so long” to come to the police. At the end of the interview, the detective asks the victim, “Why do you want to mess up this guy’s life”?</p>	<p>A young Black woman reports that she was sexually assaulted by her boyfriend two weeks ago. When interviewing her, the detective asks her to tell him what happened. He does not interrupt her while she recounts the assault, and instead waits until she has finished to ask follow-up questions, including what brought her in that day to report and whether she told anyone else about the assault after it happened. When the victim leaves, the detective opens an investigation and calls the witnesses the victim identified to determine if they can corroborate her account.</p>
Bad Practice Example	Good Practice Example
<p>A woman involved in sex work reports to patrol officers that she was sexually assaulted at gunpoint by a stranger in the parking lot of a liquor store. Detectives locate and interview the suspect, whose account is almost entirely consistent with that of the victim. Instead of trying to further corroborate the victim’s account by witness interviews or store surveillance footage, the detectives charge the suspect with gun possession and close the case by arrest.</p>	<p>A woman involved in the commercial sex trade reports to patrol officers that she was sexually assaulted at gunpoint by a stranger in the parking lot of a liquor store. Detectives ask the store for its surveillance footage and interview employees who were working at the time of the assault. After the footage and witness interviews, along with the interview of the suspect, confirm the victim’s account, the detectives charge him with gun possession and aggravated sexual assault and close the case by arrest.</p>

Principle 2: Treat All Victims with Respect

Use interviewing strategies that are trauma-informed and support the victim’s disclosure of facts about the incident.⁴²

All victims deserve respect, compassion, and self-determination; receiving the appropriate response and services can help a victim begin to heal from the trauma of domestic or sexual violence. In addition, a victim who is treated with respect is more likely to continue participating in an investigation and prosecution than one who feels disbelieved, judged, or blamed for the harm they have suffered. LEAs 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 elicit information and build trust with the victim.

Principle in Practice

Although LEOs often must ask difficult questions to gather necessary information to investigate a complaint or prepare a case for prosecution, LEOs should consider *how* and *when* to ask those difficult questions. By taking affirmative steps to be kind, respectful, and fair to all complainants, LEOs may be able to increase the quality and quantity of the information they obtain. In addition, there are also some questions that are not appropriate to ask at any point during the investigation, no matter how they are phrased. These types of questions ignore the

trauma that the victim has suffered and, whether intentional 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.

Understanding the impact of trauma may help explain many of the challenges that officers face in interviewing victims (e.g., gaps in memory, inconsistent accounts, the victim's inability to recall details in sequential order, or delayed reporting) and prevent inappropriate questioning. LEAs should review and revise their policies and procedures, as necessary, and provide training so that officers know how to account for the emotional impact that victims may endure when assisting in an investigation after having suffered something traumatic, like sexual assault or domestic violence.⁴³ For example, a victim may have flashbacks or intense psychological distress when asked to recall details about the incident. It is important that officers convey to a victim that the purpose of the interview is to understand and determine the facts, not to question the victim's choices.⁴⁴ 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.⁴⁵

Trauma-informed: What Is It?

There is no single agreed-upon definition for "trauma-informed," but the main goal of a trauma-informed approach is to avoid further traumatizing someone who has already suffered trauma.

"The four Rs" of a trauma-informed approach are: realizing how trauma affects people and groups, recognizing the signs of trauma, having a system which can respond to trauma, and resisting re-traumatization.^a

Training on trauma-informed interviewing techniques can help law enforcement officers respond appropriately to victims and conduct investigations properly. But training alone is not enough. LEAs must ensure officers have sufficient resources, support, and supervision to effectively respond to sexual assault and domestic violence.

^a Source: Substance Abuse and Mental Health Services Administration (SAMHSA)'s Concept of Trauma and Guidance for a Trauma-informed Approach: <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4884.pdf>.

A trauma-informed approach to asking questions during a victim interview can also help the investigator with establishing 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 their 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 refrains from questioning why such an amount of alcohol or drugs was used (or that they were used at all) and demonstrates understanding that the victim has endured something traumatic. 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 accusatory and can dissuade a victim from assisting with the investigation.⁴⁶ Therefore, training officers to explain why they are asking difficult questions, and to rephrase questions in a way that avoids victim-blaming language and adversarial tone, can help them earn victims' trust and elicit information that facilitates investigations.

What NOT to Say	What to Say
<ul style="list-style-type: none"> • “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 his scholarship/career/reputation?” • “Wasn’t this just a trick gone bad?” • “Tell me what happened from start to finish.” • “I’m sorry but you are reporting an incident that occurred several months ago. There is nothing we can do at this point.” • “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?” • “I can’t take this to the prosecutor.” 	<ul style="list-style-type: none"> • “Can you tell me what happened?” • “What can you tell me about the person who did this?” • “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?” • “I know that this question is difficult to answer and I want you to know I am only asking to get a clear picture of what you’ve experienced. I am very sorry about what happened to you and I do not think that you are responsible for it. Any questions I ask about alcohol or drug use by you or the offender I’m only asking to understand what happened.” • [If it would not compromise the evidentiary value of the interview:] “Would you like an advocate to be present?”⁴⁷ • “I’m sorry this happened, and I commend you for reporting it. Your health and safety are a priority. How can I support you?”

Similarly, officers should not make statements or otherwise indicate to the victim that they doubt the victim’s credibility, or exhibit any bias towards the victim based on gender.⁴⁸ Such statements and judgments could include: stereotyped negative assumptions about the truth of a reported assault (e.g., that women are likely to report “regretted sex” as rape, that people who are transgender or gender nonconforming are unlikely to be raped, that people who work in the sex trade cannot be raped, or that people of certain ethnicities or races are more “promiscuous”); automatically believing the reported assailant’s claim that the sex was consensual because of a prior or current relationship; or subtly, or even blatantly, coercing the victim to recant the report by blaming the victim for the assault or for making unwise choices.

Bad Practice Example	Good Practice Example
<p>A Black woman reports to police that she was accosted and sexually assaulted by a stranger while walking to work. She tells a white officer that the assailant was a young, slender, tall, light-skinned Black man. The officer suggests that the woman drive around with him to see if they can spot the assailant on the street. Several times the officer rolls up alongside Black men who do not at all match the description the woman gave, including an elderly, overweight Black man. Frustrated, the woman says, “I told you what he looked like and none of these guys look anything close.” The officer becomes defensive, replying, “Well, don’t you want us to catch the person who did this to you?” The interaction upsets the victim so much that she asks to stop the search for her assailant.</p>	<p>A Black woman reports to police that she was sexually assaulted by a stranger outside a club after she agreed to go outside with him to smoke a joint. A white detective who interviews her asks questions like, “Can you tell me what the person looked like?” He assures the woman that it’s alright that she can’t fully answer all the questions and remember everything. She tells the officer that the assailant was a young, slender, tall, light-skinned Black man. Officers are promptly dispatched to the club to speak to potential witnesses and collect any evidence that may be at the scene. Security camera reel from a nearby business shows two people who appear to be the victim and the described assailant leaving the club and walking into an alley. A bouncer at the club identifies the man by his first name and says that he has had problems with the man before.</p>
Bad Practice Example	Good Practice Example
<p>A review of complaints finds that young athletes were sexually abused by a physician under the guise of medical treatment. Despite the extraordinarily serious nature of the reports against the physician and the possibility that his conduct could be continuing, law enforcement officials failed to respond with seriousness and urgency, made numerous and fundamental errors when they did respond, and failed to take steps to mitigate the ongoing threat posed by the perpetrator. For some victims, their abuse began after law enforcement officials knew of the allegations against the physician.</p>	<p>A student-athlete who was abused by a university athletics trainer reports the trainer to authorities. An investigator and a prosecutor work together to interview other student athletes to determine whether there was a pattern of behavior, meet with initial disclosure witnesses to corroborate the allegations, and ultimately bring charges against the trainer. Once the charges are made public, a former student, who was abused earlier by the trainer but who had not come forward, comments that she feels vindicated by the prosecution.</p>

Further, LEAs should train officers to write reports of interviews or statements that incorporate the victim’s words, spontaneous statements, and narrative as much as possible, as opposed to providing the officer’s own summary. Such an approach will further the goal of presenting the victim’s account of the events from the victim’s perspective,⁴⁹ and ensure that the officer’s notes are accurate. Moreover, this practice avoids recording statements that incorrectly appear to be made by the victim and may subject the victim to unfair cross-examination by defense counsel at trial. To ensure privacy and encourage candor, victim interviews should not be conducted in public waiting areas or in front of other witnesses.

Additionally, ensuring a victim has access to a victim advocate during a criminal investigation can have a positive impact on the victim’s experience with law enforcement and the victim’s coping and recovery.⁵⁰ A victim advocate can provide support in several ways, including by

preparing a victim for law enforcement interviews—and for the criminal justice process overall—by helping the victim know what to expect. This preparation may allow the victim to feel at ease during the interview, as well as foster trust between the victim and the LEO. This simple step of encouraging the victim 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, the prosecution of any crime, and the victim’s continued cooperation with law enforcement. LEAs can help ensure that victims have access to advocates by establishing partnerships with victim services organizations in the community.

Principle 3: Ensure that Policies, Training, Supervision, and Resource Allocation Support Thorough and Effective Investigations

*Collect, preserve, and analyze evidence.*⁵¹

Unlike many other crimes, 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 conduct thorough investigations of these crimes by promptly gathering, preserving, and analyzing evidence, particularly corroborative evidence that supports victim and witness statements.

Bad Practice Example	Good Practice Example
<p>A 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 examination and the patrol officer who interviews her takes the kit to an evidence storage facility. A detective calls her a few days later and leaves a message. When he does not immediately hear back, he closes the case, noting that the victim cannot be located, is not cooperating, and that there were no witnesses. The kit is never submitted to the lab for testing and an arrest is never made.</p>	<p>A 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, an officer drives the woman to the hospital for a forensic exam, and later takes the kit to an evidence storage facility. A detective calls her a few days later and leaves a message. When the detective does not immediately hear back, she makes additional attempts to reach the woman, as does an advocate who works for the LEA. The detective and advocate arrange a time to meet the victim for an interview, and the sexual assault kit is submitted for analysis soon after.</p>

Principle in Practice

To ensure that investigations are thorough, LEAs should implement clear stand-alone policies, procedures, and training on how to conduct domestic and sexual violence investigations that are complete and bias-free.⁵² At a minimum, LEAs should have guidelines that address the following:⁵³ collecting and preserving all relevant and corroborative evidence; ensuring that, for victims who undergo medical forensic exams, sexual assault kit evidence is submitted to a crime laboratory and tested in a timely manner; identifying and documenting victim injuries (including evidence of strangulation, such as pictures or use of a body diagram), both at the time of the incident and during subsequent interactions; identifying and documenting all psychological and sensory evidence; and separately interviewing all possible witnesses and suspects as soon as

possible.⁵⁴ Furthermore, while medical forensic examinations are valuable tools in sexual assault investigations, a victim’s willingness to undergo such an examination or the information gleaned from a particular exam are not substitutes or alternatives to conducting a thorough investigation using all tools at the LEA’s disposal.

To ensure that all parties are able to communicate the relevant facts, it is important to ensure meaningful access for people who have limited English proficiency⁵⁵ and people who have hearing or speech impairments. An LEA should have a language access plan⁵⁶ that officers can follow. Absent exigent circumstances, LEAs should always use an independent qualified interpreter for interviews.⁵⁷ To ensure independence and accuracy in investigations, LEOs should not use a victim’s family or friends as interpreters. Moreover, it is critical that children never be used as interpreters: this undermines effective language access for victims, can traumatize children and may inhibit a victim from sharing important details about an assault.

The impact of properly investigating reports of sexual assault and domestic violence can go beyond individual cases and public safety at large; it also helps LEAs establish and maintain community trust. LEAs are encouraged to work in partnership with victim services providers, culturally specific organizations, and other entities in their communities to craft and review policies. Furthermore, recruiting and retaining LEOs from diverse backgrounds, including hiring more women, may help mitigate gender bias in the law enforcement response to these crimes.⁵⁸

Bad Practice Example	Good Practice Example
<p>A 911 caller reports that someone is screaming in a neighboring apartment and it sounds like she is being hurt. Officers arrive and find a woman who is crying and has visible injuries. She does not speak English.</p> <p>One officer says he “knows a little Spanish,” uses a louder voice when talking to the woman, and intersperses Spanish words into mostly English sentences, such as, “Quién? Who did this to you? Your boyfriend? Your novio? What’s his name? El nombre?”) One officer uses a translation app on her phone to try and ask the woman if she wants to go to the hospital, but the officer does not know how to pronounce Spanish words. Eventually the officers begin using the woman’s young son to translate their questions and her responses.</p> <p>The next morning, a detective reads the officers’ report and realizes he will need to find someone who speaks Spanish before calling the victim. This detective, who is managing a very high caseload, sets the report aside and intends to get back to it when he has time to track down a Spanish-speaking colleague.</p>	<p>An officer who just received training on his department’s language access plan responds to a domestic violence call. The victim doesn’t speak English, and she doesn’t understand his question when he asks her what language she speaks. He shows her Language Line’s language identification card and she points to Tagalog. The officer uses Language Line to communicate with the victim about her immediate safety needs and to arrange for her to be taken to the hospital for treatment.</p> <p>The next day, a detective—also familiar with the agency’s language access plan—arranges for a qualified interpreter to join him when he interviews the victim.</p>

Bad Practice Example	Good Practice Example
<p>A detective is interviewing a teenage boy whose mother reported that the boy was sexually assaulted by a rideshare driver. Instead of answering the detective, the boy begins repeating the detective’s questions. Thinking the boy is mocking him, the detective snaps, “Reporting rape isn’t a joke.” The boy’s mother interjects and explains that her son has autism spectrum disorder, and when he is under stress he may unintentionally repeat what is said to him. The detective apologizes for being brusque but says that since the boy cannot explain what happened, he doesn’t have anything on which to build a case.</p>	<p>A detective is interviewing a teenage boy whose mother reported that the boy was sexually assaulted by a rideshare driver. Instead of answering the detective, the boy begins repeating the detective’s questions. Thinking the boy is mocking him, the detective snaps, “Reporting rape isn’t a joke.” The boy’s mother interjects and explains that her son has autism spectrum disorder, and when he is under stress he may unintentionally repeat what is said to him. Upon learning that the boy has a disability, the officer arranges for him to be interviewed by a forensic interviewer who is trained on interacting with victims with developmental disabilities. The officer observes the interview from another room.</p>
Bad Practice Example	Good Practice Example
<p>A 12-year-old Black girl was out walking her puppy when three men abducted her. She was held captive for three days and repeatedly raped before she escaped. Police never followed up with the girl’s family.</p> <p>When the child victim grew up and was in her 20s, she is sexually assaulted again—this time by a coworker. She drives to a police station and tells an officer that she was raped. The officer says she is too busy to deal with the victim, and suggests she find her own way to the hospital.</p> <p>A decade later, news reports divulge that the police department to which this woman reported her sexual assaults has large volumes of unsubmitted sexual assault kits in its custody. As old cases are investigated for the first time, the woman learns that the sparse police report from her assaults when she was 12 years old wrongly identified her as a runaway, and the case was not investigated. The kit from the rape when she was in her 20s is tested, and DNA obtained from it is used to identify an offender who committed multiple sexual assaults before and after the woman’s assault.</p> <p>Other kits tested years and decades after they were first collected also link to known offenders, including a serial killer who preyed on Black women, and another assailant who murdered a police officer.</p>	<p>A police chief learns that hundreds of sexual assault kits that had been sitting in a police warehouse were ultimately destroyed by his agency.</p> <p>The police chief and a lieutenant, committed to improving how sexual assaults are handled, work with a rape crisis center to call and apologize to every victim whose kit was destroyed. City attorneys discourage these admissions of fault, but the chief insists on doing the “right thing.”</p> <p>New policies are written and enacted that require prompt submission of sexual assault kits to the crime laboratory and outline the steps for investigating sexual assault, including how to conduct trauma-informed interviews with victims.</p>

Principle 4: Appropriately Classify Reports of Sexual Assault or Domestic Violence

*And appropriately document and clear them after a complete investigation.*⁵⁹

Complaints of sexual assault and domestic violence should be properly classified. Rates at which reported sexual assaults are cleared by arrest or exceptional means, and rates at which they are classified as unfounded, may reveal a pattern within an LEA of failing to conduct thorough investigations.⁶⁰

Furthermore, 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 report of a crime, a determination that a sexual assault or domestic violence complaint is unsubstantiated should be made only after a complete investigation, as discussed in Principle 3, and not presumptively at the classification stage. To ensure accurate classification of reports of sexual offenses, an LEA’s policies must describe the appropriate standards and protocols for case classification and incorporate supervisory review of case classification.⁶¹ In addition, LEAs should train officers on their agency’s procedures for documenting such reports and the elements of sexual assault and domestic violence offenses, so that they can better identify incidents that meet those criteria. The examples that follow illustrate how misclassifying a sexual assault complaint can lead to the failure to properly investigate the complaint and thwart its potential prosecution.

The International Association of Chiefs of Police created checklists to help first responders and supervisors ensure that necessary information about a sexual assault or domestic violence incident is documented in reports. Available at: <https://www.theiacp.org/resources/document/report-review-checklists>.

Bad Practice Example	Good Practice Example
<p>A friend brings a woman to a police station and tells the officer that her friend was raped while on a date the night before. While they are 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 LEO on duty fills out a report, but immediately classifies the incident as “unfounded.”</p>	<p>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. An officer brings the woman and her friend to a private area to ask the woman about what happened. The officer asks her open-ended questions and is unperturbed when she answers some of his questions with “I don’t know” or “I don’t remember.” The woman is able to explain that she can usually handle 2 drinks easily, but after a second drink the night before, she became very drowsy and does not recall what happened next. She says that she woke up in her date’s apartment and she feels bruised and raw in her genital area. The officer arranges for the woman to be driven to a hospital for a medical forensic examination, and he explains to the woman that if she consents to provide a urine sample that it will be transported immediately to a crime laboratory for toxicology testing in accordance with the jurisdiction’s drug-facilitated sexual assault policy.</p>

Principle in Practice

LEAs should review and revise their policies and procedures regularly in keeping with a predetermined timeline, and provide training to officers to ensure that complaints are properly documented and only classified as non-criminal or unfounded after a complete investigation is conducted.⁶² 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 contradictions in the victim's statements; the victim is reluctant to share their story; the victim expresses concern over having the alleged assailant charged with a crime; the victim expresses self-blame (e.g., suggests that they didn't fight hard enough to stop the assault); the victim is emotionally distraught and unable to discuss the incident; the victim was under the influence of alcohol or drugs at the time of the incident; the victim is married to, in a relationship with, or casually dating the assailant; the victim delayed reporting; or the victim declines to participate in a medical forensic examination.^{63,64} Supervisors must provide oversight to ensure policies related to classifying and investigating sexual assault and domestic violence are followed.⁶⁵

Additionally, law enforcement should be aware that victims of domestic violence and sexual assault may also be victims of sex or labor trafficking, and officers should receive training on identifying and responding to trafficking victims. The Department offers training and grants to assist law enforcement and community partners in detecting trafficking and providing services to trafficking victims.⁶⁶ LEAs should also develop policies and procedures regarding applying for Continued Presence for trafficking victims who may be witnesses, and for providing a certification or declaration for T and U visas, which are available for immigrant victims of certain crimes—including trafficking, sexual assault, and domestic violence—if they assist law enforcement in the investigation or prosecution of criminal activity and meet other eligibility criteria.⁶⁷

Victims may disengage from the justice process for many reasons, including fear for their safety and fear of retaliation, wanting to move on, pressure from their family and friends, and/or because assisting law enforcement with an investigation demands more time and energy than the victim has to give. Some victims disengage because of inadequate and victim-blaming responses from law enforcement.

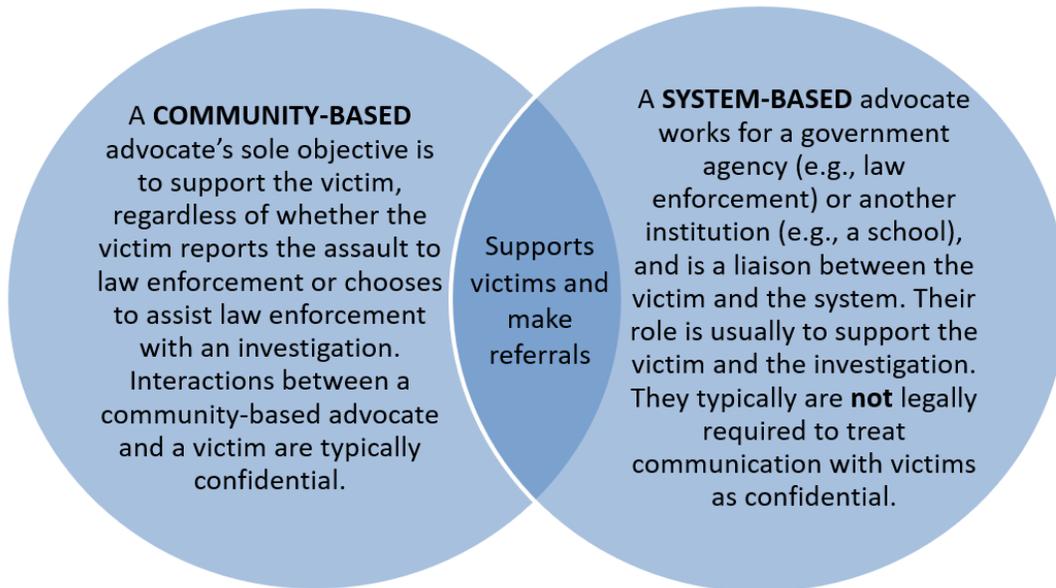
Referring victims to advocacy and other services connects them with resources to help them cope, heal, and achieve safety and justice, no matter what happens with the case. Advocacy can also facilitate the victim's continued assistance with the investigation, if the victim chooses.

Principle 5: Refer Victims to Appropriate Services⁶⁸

Make timely and suitable referrals for healthcare, advocacy, shelter, legal, and other services.

LEAs can enable effective referral-making by establishing and maintaining relationships with community partners. These partnerships can be nurtured in a variety of ways, including through cross-training, collaborative policy development and review, and Sexual Assault Response Team meetings. Officers should take steps to address the medical, emotional, safety, legal, and other needs of victims of sexual assault and domestic violence at the time they report an incident or make a complaint. Officers should connect victims with services that are available, whether they choose to assist law enforcement with an investigation or not and no matter the disposition of the case. For this reason, officers should be aware of the distinctions between community-based and system-based advocates, which the graphic on the next page explains, and be prepared to provide victims with meaningful referrals, depending on what services are available in the jurisdiction.

Differences between community-based and system-based advocates



Principle in Practice

LEOs should make timely and appropriate referrals to healthcare providers for victims of sexual assault or domestic violence.⁶⁹ Furthermore, policies and trainings should direct officers to—at the earliest point possible—offer to contact a victim advocate for the victim and refer victims to resources such as rape crisis centers, domestic violence shelters, legal services organizations, and/or community-based and culturally specific organizations.⁷⁰ These organizations can support victims regardless of what happens with the case, or if the victim disengages from the criminal justice process. At a minimum, officers should ensure that victims are aware of these services.⁷¹

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 have established trust within underserved, marginalized, or non-English populations. LEAs 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 (OVW) at <http://www.Justice.Gov/ovw/local-resources>.

Principle 6: Properly Identify the Predominant Aggressor in Domestic Violence Incidents

Distinguish between an assailant’s violence and a victim’s self-defense actions. ⁷²

It is common in domestic violence incidents for both the abuser and the victim to have used physical force. Therefore, it is essential that officers are trained to identify the predominant aggressor when responding to these incidents, and to make arrests accordingly. LEOs should be aware of the potential for abusers to report domestic violence complaints preemptively, claiming that they themselves are the victims, or that a victim may feel safe to retaliate once law enforcement is present. The following examples illustrate why it is important to identify the predominant aggressor.

Bad Practice Example	Good Practice Example
<p>A man calls 911 to report that his girlfriend assaulted him. When an officer arrives, he sees the man has a bite mark on his inner arm. The man’s girlfriend, while visibly shaken, appears to be physically unharmed, although she claims that her boyfriend tried to strangle her. Without further inquiry, the officer files a report, citing the woman as the predominant aggressor, and arrests her.</p>	<p>A man calls 911 to report that his girlfriend assaulted him. When an officer arrives, he sees the man has a bite mark on his inner arm. The man’s girlfriend, while visibly shaken, appears to be physically unharmed, although she says that her boyfriend tried to strangle her and she bit him while struggling to free herself. The officer observes that the man is much taller and more muscular than his girlfriend, and learns from talking with the woman that she had to go to the hospital to get treatment for her injuries the last time that she called police when her boyfriend was abusing her. A neighbor also tells the officer that the man “is always beating up on” the woman. The officer documents the bite mark on the man’s arm and the parties’ conflicting accounts of how it happened. The officer arrests the man and offers to transport the woman to a hospital. The officer also give the woman a brochure from a domestic violence victim services organization, explain that the organization has a 24-hour hotline, and offers to put the woman in touch with an advocate.</p>

Principle in Practice

LEAs 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.⁷³ 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:⁷⁴

- 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 (i.e., injury analysis).
- The existence of past or present protective orders.
- Criminal histories involving violence to others.
- Whether there were any witnesses to the criminal conduct.
- Whether there is any corroboration to aspects of the accounting.

LEAs also should discourage dual arrests in domestic violence cases, wherever feasible, as well as issue policies that clearly delineate the limited circumstances under which dual arrests are permissible.⁷⁵ Training LEOs to understand and apply self-defense laws can help them avoid making dual arrests. When a victim is arrested for retaliating in self-defense against their abuser—or “hitting him first” in one instance even though the party who hit first is the victim of ongoing and more dangerous abuse—it leaves the victim vulnerable to further harm and less likely to call for police assistance next time. Arresting victims punitively subjects them to the legal system when they are, in fact, in urgent need of protection. LEOs should use discretion in making arrest decisions based on which party poses a threat to the other party or public safety. Such discretion, if permitted, must be done in a bias-free manner and reviewed for bias as part of routine supervisor reviews of arrest decisions and data analysis.

To the extent that officers have discretion in how to respond to domestic or sexual violence, they should consider victims’ preferences and concerns. Consistent with applicable laws and policies, officers should evaluate how their response might align with the victim’s short- and long-term safety and needs. A victim may want police intervention to deescalate a dangerous situation, but the victim could also have longer-range concerns about their personal safety and well-being and/or that of their family if their abusive partner is arrested. Comprehensive training on domestic violence, and engagement with community-based victim advocates, can help officers determine the best course of action when responding to incidents.⁷⁶

Principle 7: Implement Policies to Prevent Officer-perpetrated Sexual Assault and Domestic Violence and Hold Officers Who Commit These Offenses

Accountable

Address the prevention of, and response to, sexual assault and domestic violence perpetrated by LEOs in clear, stand-alone policies.⁷⁷

LEAs strive to be seen by their communities as credible and legitimate authorities in enforcing the law and protecting public safety. If an LEA does not fully investigate reports of sexual assault, sexual misconduct, and domestic violence perpetrated by its own officers, or if it fails to appropriately discipline officers when those reports are substantiated, the LEA's legitimacy erodes. This, in turn, may make victims more reluctant to report sexual assault and domestic violence, which undermines public safety by increasing the risk that offenders—in the community at large and in the LEA's own ranks—who are not held accountable will continue to cause harm.

End Violence Against Women International's [Model Policy Resource: Law Enforcement Sexual Misconduct Prevention and Accountability](#) and pages 5-6 of the International Association of Chiefs of Police's [Domestic Violence Model Policy](#) are resources LEAs can use to establish policies for addressing sexual assault and domestic violence perpetrated by LEOs.

Principle in Practice

Given the severe harm that can result from officer-perpetrated gender-based violence, LEAs should screen potential hires for any behaviors that could contribute to such violence. The hiring process should include reviewing candidates' discipline history in past employment, military service, and education, as well as any criminal history and history of civil protection orders.⁷⁸ In-depth personal interviews and psychological screenings should also be used to identify any propensity for abuse in candidates' backgrounds.⁷⁹

To ensure public safety and earn public confidence, LEAs should develop policies and practices aimed at preventing and addressing on-duty and off-duty misconduct (which includes sexual harassment, sexual assault and abuse, domestic violence, and related misconduct perpetrated by LEOs). These policies should provide that, at a minimum, the agency will open separate, concurrent internal administrative and criminal investigations whenever a report is made that an officer has engaged in sexual misconduct or domestic violence, irrespective of whether the officer was acting in their official capacity at the time.⁸⁰ Criminal investigations may be handled by the LEA's unit responsible for investigating sex crimes; the internal affairs unit, in consultation with the unit responsible for investigating sex crimes; or an outside agency.⁸¹ In addition to opening internal investigations, LEAs should refer reports of officer misconduct involving potential criminal activity to the local prosecutor's office or to the FBI if the officer was acting in his official capacity while engaging in such misconduct.⁸² LEAs should also have separate policies designed to prevent officer-perpetrated sexual misconduct or domestic violence, including the use of early warning systems to identify officers who show proclivities

toward such behavior. LEAs can also use proactive strategies such as random audits of body-worn or in-car camera footage to spot law enforcement patterns in locations specific to high-risk populations (e.g., “lovers’ lanes,” areas where commercial sex is sold, and common LGBTQI+ spaces). In addition to policies, LEAs should require personnel investigating reports of sexual misconduct and domestic violence by LEOs to undergo specialized training on conducting such investigations, including trauma-informed interviewing skills.⁸³

Finally, police leaders should actively work to ensure that the culture within their agency does not promote, normalize, or minimize officer conduct that reflects gender bias (such as making degrading and objectifying remarks about women or transgender people, or making victim-blaming remarks). Officers should be encouraged to report fellow officers’ misconduct and intervene when they see it happening,⁸⁴ and they should be supported and protected from retaliation when they do report such misconduct.⁸⁵

Bad Practice Example	Good Practice Example
<p>A police officer uses routine traffic stops as cover for ensnaring and sexually assaulting women. He victimizes women who are Black and poor, many of whom have criminal histories and some of whom are engaged in the commercial sex trade, assuming he will be able to get away with it. Indeed, women assaulted by this police officer testify in court that they did not report their victimization because they assumed law enforcement would not believe them, especially when the person they would accuse was a police officer.</p>	<p>In implementing a new performance management tool called an early warning system, an LEA ensures that the system is designed to flag potential indicators of problematic behavior toward people who are especially vulnerable to domestic and sexual violence. For instance, if an officer primary pulls over female motorists for traffic stops, this may signal the need for a closer look at the officer’s conduct.</p> <p>The chief also makes clear that she will not defend misconduct committed by officers. She issues—and ensures her department adheres to—policies that specify what is to happen when an officer is accused of domestic or sexual violence.</p>
Bad Practice Example	Good Practice Example
<p>A road patrol officer arrests a woman for drug possession. Instead of taking her to jail, he takes her to a dark parking lot and rapes her, and then lets her go. She immediately tells her boyfriend, who calls 911 while the woman cries in the background. The woman obtains a medical forensic examination, but the internal affairs detectives never submit the kit for analysis, and decide that she must have made up the rape as a cover for cheating on her boyfriend. The subject road patrol officer remains on the beat and sexually assaults at least three more women before an outside agency investigates his conduct and he is ultimately charged.</p>	<p>As part of a no-tolerance policy regarding officer-committed sexual misconduct and domestic violence, an LEA mandates a Code of Conduct for sworn and non-sworn staff that requires them to report misconduct. During an undercover human trafficking investigation, Officer X is listening to a live feed of Officer Y’s interaction with a potential victim. Officer X hears sounds consistent with sexual activity. Officer X reports the conduct to his supervisor and to the internal affairs unit, at which time the LEA conducts a thorough investigation. The LEA’s policy against retaliation is made explicitly clear during and after the investigation.</p>

Principle 8: Maintain, Review, and Act Upon Data Regarding Sexual Assault and Domestic Violence

Regularly examining data helps LEAs and their community partners get a clear picture of strengths and gaps in the justice system's response.⁸⁶

Some LEAs 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.⁸⁷ 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.⁸⁸ Therefore, if the ratio of arrest reports for lesser offenses (e.g., disorderly conduct) is significantly greater than for assaults, this may indicate that LEOs are failing to correctly identify the behavior—i.e., they are classifying serious domestic violence incidents as less serious infractions, such as disorderly conduct.⁸⁹ Furthermore, data can reveal patterns in sexual assault or domestic violence case attrition, meaning the points at which cases stop moving through the justice process, and data can be used to determine how decisions made within and outside the LEA (e.g., in prosecution offices and courts) are affecting the administration of justice in these cases. For example, in one city, a district attorney's office's case review found that only 30 percent of reported sexual assaults were referred by police to prosecutors, and, of those, only 37 percent were accepted for prosecution.⁹⁰

Principle in Practice

LEAs should assess whether their jurisdictions are under-investigating sexual assault and domestic violence reports by examining their own jurisdiction's crime statistics, including case-file and aggregate data on sexual assault, domestic violence, and other violent crimes in that jurisdiction,⁹¹ as well as data on calls for service and other aspects of the LEA's operations. LEAs should evaluate the extent to which their current data collection practices are designed to capture disparities in crime or police response based on race, geographic location, sex of victim and perpetrator, and other characteristics that could reveal inequity. Routinely examining data sets outside of the LEA's own data can also help law enforcement and their community partners develop a clear picture of sexual assault and domestic violence in the community, and where there may be gaps in crime reporting, community engagement, or the criminal justice system's response. LEAs, prosecutors' offices, and victim services providers can analyze their respective data together to identify trends in the incidence of sexual assault and domestic violence in their communities, assess the effectiveness of their responses to these crimes, and make decisions about how to better investigate and prosecute these crimes to reveal opportunities to improve community trust. For example, an LEA might rely on data on sexual assault and domestic violence reports relative to victim services providers' data to determine whether it has an appropriate number of officers assigned to handle these crimes and 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 LEAs and their criminal justice system partners are operating lawfully and effectively.

Bad Practice Example	Good Practice Example
<p>A woman reports to police that she thinks a man she met at a hotel bar drugged and sexually assaulted her while she was unconscious in her hotel room. Responding officers ask her if she's sure she didn't just have too much to drink. The officers decline to collect any evidence in the hotel room, like blood-stained bed sheets. She takes a cab to the hospital to undergo a sexual assault medical forensic examination.</p> <p>A week later, she calls the detective assigned to her case. The officer tells her that the case is closed due to insufficient evidence and the prosecutor's unwillingness to file charges.</p> <p>The woman learns later that her case—like more than half of sexual assaults reported to this police department—was cleared by exceptional means, with a note on the case file saying “prosecution declined.” She discovers that in all sexual assault cases (but no other types of cases), detectives consult a prosecutor right after a report is made. If the prosecutor says they will not accept the case, then no investigation is conducted to determine if there is probable cause to make an arrest.</p>	<p>A woman reports to police that, while waiting at a bus stop after a night shift at her job, she was forced into a wooded area by a young man who sexually assaulted her at gunpoint. An officer drives the woman to a hospital where she is met by a victim advocate and a Sexual Assault Nurse Examiner (SANE). The SANE swabs in and around the victim's mouth. The advocate helps the woman arrange for a neighbor who watches the woman's children to stay with the children longer.</p> <p>Per agency policy, the sexual assault kit is immediately submitted to a crime lab. A detective conducts an investigation while waiting for results from the kit, but the few leads she has soon run dry.</p> <p>When the crime lab obtains a DNA profile from the oral swab and it is uploaded into CODIS, it hits to an offender with a history of drug trafficking. The suspect is charged with sexual assault, but he claims the encounter was consensual—that he traded the woman drugs for a sexual favor.</p> <p>The trial ends in a hung jury because one juror believes the defendant's account and votes not guilty. The woman tells the detective and prosecutor that, although she is upset over the result, it matters to her that the police, the prosecutor, and 11 jurors believed her, and that she is willing to testify at the re-trial.</p>

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 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 by 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 LEAs 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

reports 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.⁹² 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, disability, or religion.⁹³ Denying police services to some persons or communities due to bias or stereotypes related to protected characteristics is a form of discriminatory policing. According to the U.S. 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.”⁹⁴ Many courts have extended this principle to include an LEA’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 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 the same as it does with victims of other comparable crimes.⁹⁵

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.⁹⁶

Deprivation of Rights Under Color of Law – 18 U.S.C. § 242

Section 242 of Title 18 makes it a crime for a person acting under color of law to willfully deprive a person of their Constitutional rights. To act under “color of law” means to use government-sanctioned authority – at all levels of government - to facilitate one’s conduct, regardless of whether on or off-duty.⁹⁷ Those who act under color of law include police officers, probation officers, corrections officers, and other prison employees. It also includes judges and other public officials, tribal officers, private prisoner transport officers, private prison employees,⁹⁸ state employees like teachers and athletic trainers,⁹⁹ medical professionals or others who have government-contracted employment.¹⁰⁰

When someone acting under color of law commits sexual assault, they violate the constitutional rights of their victims.¹⁰¹ It is not necessary that the crime be motivated by race, color, religion, disability, gender, gender identity, sexual orientation, familial status, or national origin of the victim. Such conduct is a felony punishable by a range of penalties up to life in prison, depending on the circumstances of the misconduct. The penalties are set forth under 18 U.S.C. § 250 (Penalties for Civil Rights Offenses involving Sexual Misconduct, enacted in March 2022).

Safe Streets Act — 42 U.S.C. § 3789d

Jurisdictions receiving federal financial assistance authorized by the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) are also prohibited from engaging in discriminatory policing by the language of that statute. The Safe Streets Act 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 part with funds made available under this chapter.”¹ 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.”¹⁰² When an LEA’s handling of sexual assault or domestic violence cases has a disparate impact on a protected category, 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 — 34 U.S.C. § 12601

The Violent Crime Control and Law Enforcement Act of 1994 prohibits law enforcement officers from engaging in a pattern or practice of policing that violates either the U.S. Constitution or federal laws. Under Section 12601, it is unlawful for LEAs, including prosecutorial offices, to violate the U.S. 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 — 34 U.S.C. § 12291(b)(13)

The Violence Against Women Reauthorization Act of 2013 prohibits discrimination in any program or activity funded in whole or in part with funds made available under VAWA, or other funds administered by OVW, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability.

Additional Resources

The Department has identified additional resources to further guide LEAs’ responses to reports of sexual assault and domestic violence in the attached appendix and on its website at www.justice.gov/ovw/identifying-and-preventing-gender-bias. These resources also contain sources for training opportunities for law enforcement staff. LEAs that would like additional technical assistance on how to eradicate gender bias in law enforcement should contact OVW by phone at 202–307–6026 or email at ovw.info@usdoj.gov.

An abbreviated version of this guidance highlighting the key points of each principle is available at: <https://www.justice.gov/ovw/policing-guidance>.

¹ 42 U.S.C. § 3789d(c)(1) (2006).

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

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 This document focuses on identifying and reducing the impact of gender bias and other biases on the law enforcement response to sexual assault and domestic violence. Explicit and implicit biases, however, exist throughout society, and, as a result, can arise in various aspects of the criminal justice system. Specifically, 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. Additionally, LEAs must 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 victim safety.

³ See, for example, Garza, A. D., Franklin, C. A., & Goodson, A. (2021). Police response to Latina immigrant intimate partner violence victims: a qualitative analysis. *Journal of Interpersonal Violence*, 08862605211037980.

⁴ For further guidance, see the interactive Police Reform Finder at <https://www.justice.gov/crt/page/file/922456/download> (select "Reforming Specific Police Practices" and then select "Bias in Policing" to locate pertinent resources); the 2014 guidance for federal LEAs regarding the use of race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity, at www.justice.gov/crt/case-document/file/1388381/download; and the 2001 *Principles for Promoting Policing Integrity: Examples of Promising Policing Practices and Policies* at www.ojp.gov/pdffiles1/ojp/186189.pdf (section VI speaks to non-discriminatory policing and data collection.)

⁵ Justice Department data show that 91 percent of victims of completed rape, attempted rape, and sexual assault are female. Source: Rennison, C. A. (2002). *Rape and sexual assault: Reporting to police and medical attention, 1992-2000* (NCJ 194530). U.S. Department of Justice, Bureau of Justice Statistics. <http://bjs.ojp.usdoj.gov/content/pub/pdf/rsarp00.pdf>.

⁶ The Centers for Disease Control and Prevention's National Intimate Partner and Sexual Violence Survey (NISVS) is the source for these figures. Reports and other information about the NISVS are available at: www.cdc.gov/violenceprevention/datasources/nisvs/index.html.

⁷ Ibid.

⁸ This figure was included in a 2013 NISVS report about findings on victimization by sexual orientation: Division of Violence Prevention. (2013). *The National Intimate Partner and Sexual Violence Survey: 2010 findings on victimization by sexual orientation*. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf.

⁹ Ibid.

¹⁰ Rosay, A. B. (2016). Violence against American Indian and Alaska Native women and men: 2010 findings from the National Intimate Partner and Sexual Violence Survey. *NIJ Journal*, 277, 38–45. <http://nij.gov/journals/277/Pages/violence-against-american-indians-alaska-natives.aspx>.

¹¹ Planty, M., Langton, L., Krebs, C., Berzofsky, M., & Smiley-McDonald, H. (2013). *Female victims of sexual violence, 1994-2010* (NCJ 240655). U.S. Department of Justice, Bureau of Justice Statistics. www.bjs.gov/content/pub/pdf/fvsv9410.pdf.

¹² Petrosky, E., Blair, J., Betz, C. et al. (2017). Racial and ethnic differences in homicides of adult women and the role of intimate partner violence – United States, 2003-2014. *MMWR*, 66(28), 741–746.

¹³ See, for example, Zadnik, E., Sabina, C., & Cuevas, C. A. (2014). Violence against Latinas: The effects of undocumented status on rates of victimization and help-seeking. *Journal of Interpersonal Violence*, 31, 1141–1153. <https://doi.org/10.1177/0886260514564062>.

¹⁴ Harrell, E. (2017, July). *Crime against persons with disabilities, 2009-2015*. (NCJ 250632). U.S. Department of Justice, Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/capd0915st.pdf>.

¹⁵ Shapiro, J. (Host). (2018, January 8). The sexual assault epidemic no one talks about. [Radio broadcast]. NPR. <https://www.npr.org/2018/01/08/570224090/the-sexual-assault-epidemic-no-one-talks-about>.

¹⁶ Lynch, S. M., Dehart, D. D., Belknap, J. E., & Green, B. L. (2012). *Women's pathways to jail: the roles and intersections of serious mental illness and trauma*. (NCJ 240558). U.S. Department of Justice, Bureau of Justice Assistance. <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=262638>.

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- ¹⁷ See, for example, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation, available at https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_victimization_final-a.pdf; James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equity, available at <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>; Brown, T. N. T., & Herman, J. L. (2015). Intimate partner violence and sexual abuse among LGBT people: a review of existing research. Los Angeles, CA: The Williams Institute, available at: <https://williamsinstitute.law.ucla.edu/wp-content/uploads/IPV-Sexual-Abuse-Among-LGBT-Nov-2015.pdf>; see also Stotzer, R. L. (2009, May–June). Violence against transgender people: A review of United States data. *Aggression and Violent Behavior* 14(3) 170–179.
- ¹⁸ Peitzmeier, S. M., Malik, M., Kattari, S. K., Marrow, E., Stephenson, R., Agénor, M., & Reisner, S. L. (2020). Intimate partner violence in transgender populations: Systematic review and meta-analysis of prevalences and correlates. *American Journal of Public Health*, 110(9), e1–e14.
- ¹⁹ Kivisto, A. & Porter, M. (2019). Firearm use increases risk of multiple victims in domestic homicides. *Journal of the American Academy of Psychiatry and the Law*, 48(1). doi: 10.29158/JAAPL.003888-20. See also, Fox, J. A., & Zawitz, M. W. (2007). *Homicide trends in the United States: Intimate homicide*. U.S. Department of Justice, Bureau of Justice Statistics.
- ²⁰ Fridel, E. E., & Fox, J. A. (2019). Gender differences in patterns and trends in U.S. homicide, 1976–2017. *Violence and Gender*, 6(1), 27–36. <https://doi.org/10.1089/vio.2019.0005>.
- ²¹ Morgan, R. E., & Thompson, A. (2021). *Criminal victimization, 2020*. (NCJ 301775). U.S. Department of Justice, Bureau of Justice Statistics. <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv20.pdf>.
- ²² See, for example, Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases. (2010, September 14). Hearing before the Subcommittee on Crime and Drugs of the Senate Committee on the Judiciary, 111th Congress, 6–7. (statement of Carol E. Tracy, Executive Director, Women’s Law Project) [hereinafter 2010 Senate Committee Testimony]. <http://www.judiciary.senate.gov/imo/media/doc/09-14-10%20Tracy%20Testimony.pdf> (citing research); Fenton, Z. E. (1998). Domestic violence in black and white: Racialized gender stereotypes in gender violence. *Columbia Journal of Gender and the Law*, 8(1), 27.
- ²³ See, for example, Sleath, E., & Bull, R. (2017). Police perceptions of rape victims and the impact on case decision making: A systematic review. *Aggression & Violent Behavior*, 34, 102–112. 10.1016/j.avb.2017.02.003; Venema, R. M. (2019). Making judgments: How blame mediates the influence of rape myth acceptance in police response to sexual assault. *Journal of Interpersonal Violence*, 34(13), 2697–2722; Decker, M. R., Holliday, C. N., Hameeduddin, Z., Shah, R., Miller, J., Dantzer, J., & Goodmark, L. (2019). “You do not think of me as a human being”: Race and gender inequities intersect to discourage police reporting of violence against women. *Journal of Urban Health*, 96(5), 772–783; and Russell, B., & Sturgeon, J. A. D. (2019). Police evaluations of intimate partner violence in heterosexual and same-sex relationships: Do experience and training play a role? *Journal of Police and Criminal Psychology*, 34(1), 34–44.
- ²⁴ See, for example, Warnken, H., & Lauritsen, J.L. (2019). *Who experiences violent victimization and who accesses services? Findings from the national crime victimization survey for expanding our reach*. Center for Victim Research. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/who-experiences-violent-victimization-and-who-accesses-services>; Ragavan, M. I., Thomas, K. A., Fulambarker, A., Zaricor, J., Goodman, L. A., & Bair-Merritt, M. H. (2020). Exploring the needs and lived experiences of racial and ethnic minority domestic violence survivors through community-based participatory research: A systematic review. *Trauma, Violence, & Abuse*, 21(5), 946–963. <https://doi.org/10.1177/1524838018813204>; and O’Neal, E. N., Beckman, L. O., & Spohn, C. (2019). The sexual stratification hypothesis: Is the decision to arrest influenced by the victim/suspect racial/ethnic dyad? *Journal of Interpersonal Violence*, 34(6), 1287–1310. See also Fenton, supra note 12, at 53–54 (discussing how stereotypes can lead LEOs to take the claims of African-American victims less seriously than others); Sokoloff, N. J., & Pratt, C. (Eds.) (2005) *Domestic violence at the margins: Readings on race, class, gender, and culture*; Sokoloff, N. J., & Dupont, I. (2005, January). Domestic violence at the intersections of race, class, and gender: Challenges and contributions to understanding violence against marginalized women in diverse communities. *Violence Against Women*, 11(1), 38–64.
- ²⁵ For findings from research on the effectiveness of arresting domestic violence offenders, which is one piece of a coordinated community response to these crimes, see, for example, Rosay, A. B., Wood, D., Rivera, M., Postle, G., & TePas, K. (2010). *Investigation and prosecution of sexual assault, domestic violence, and stalking*. U.S. Department of Justice, National Institute of Justice. <https://www.ncjrs.gov/pdffiles1/nij/grants/236429.pdf>; Buzawa, E. S., Buzawa, C. G., & Stark, E. D. (2017). *Responding to domestic violence: The integration of criminal justice and human services (5th ed.)*. SAGE Publishing; Maxwell, C., Garner, J., & Fagan, J. (2001, July). *The effects of arrest on intimate partner violence: New evidence from the Spouse Assault Replication Program* (NCJ 188199). U.S. Department of Justice, National Institute of Justice. <https://www.ojp.gov/pdffiles1/nij/188199.pdf>; Maxwell, C. D., Garner, J. H., & Fagan, J. A. (2002). The preventive effects of arrest on intimate partner violence: Research, policy and theory. *Criminology and Public Policy*, 2(1). https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3574&context=faculty_scholarship; and Xie, M., & Lynch, J.

P. (2017). The effects of arrest, reporting to the police, and victim services on intimate partner violence. *Journal of Research in Crime and Delinquency*, 54(3), 338–378.

²⁶ See, for example, Campbell, R., Feeney, H., Pierce, S. J., Sharma, D. B., & Fehler-Cabral, G. (2018). Tested at last: How DNA evidence in untested rape kits can identify offenders and serial sexual assaults. *Journal of Interpersonal Violence*, 33(24), 3792–3814; and Lovell, R., Huang, W., Overman, L., Flannery, D., & Klingenstein, J. (2020). Offending histories and typologies of suspected sexual offenders identified via untested sexual assault kits. *Criminal Justice and Behavior*, 47(4), 470–486.

²⁷ See, for example, BPD Consent Decree at 88; NOPD Consent Decree at 59.

²⁸ See, for example, Holmes, S. C., Maxwell, C. D., Cattaneo, L. B., Bellucci, B. A., & Sullivan, T. P. (2021, June). Criminal protection orders among women victims of intimate partner violence: Women’s experiences of court decisions, processes, and their willingness to engage with the system in the future. *Journal of Interpersonal Violence*.

<https://journals.sagepub.com/doi/pdf/10.1177/08862605211021965>; and Davis, R. C., & Maxwell, C. (2002). Preventing repeat incidents of family violence: A reanalysis of data from three field tests. Report to the National Institute of Justice. Award number 2000-WT-VX-0007. U.S. Department of Justice, National Institute of Justice.

<https://www.ncjrs.gov/pdffiles1/nij/grants/200608.pdf>; and Friday, P. C. (2006). Evaluating the impact of a specialized domestic violence police unit. Report to the National Institute of Justice. Award number 2004-WG-BX-0004. U.S. Department of Justice, National Institute of Justice. <https://www.ncjrs.gov/pdffiles1/nij/grants/215916.pdf>.

²⁹ See Buzawa, Buzawa, & Stark (2017). Also, for research on how law enforcement’s response can affect victims’ decisions to stay engaged with the investigation, see, for example, Patterson, D. (2011). The impact of detectives’ manner of questioning on rape victims’ disclosure. *Violence Against Women*, 17(11), 1349–1373. doi:10.1177/1077801211434725; Kaiser, K. A., O’Neal, E. N., & Spohn, C. (2017). “Victim refuses to cooperate”: A focal concerns analysis of victim cooperation in sexual assault cases. *Victims & Offenders*, 12(2), 297–322; and National Domestic Violence Hotline. (2015). *Who will help me? Domestic violence survivors speak out about law enforcement responses*. <http://www.thehotline.org/resources/law-enforcement-responses>.

³⁰ See, for example, Kafka, J. M., Moracco, K. E., Young, B., et. al. (2021). Fatalities related to intimate partner violence: Towards a comprehensive perspective. *Injury Prevention*, 27, 137–144; and Klein, A. R. (2009). *Practical implications of current domestic violence research: For law enforcement, prosecutors and judges* (NCJ 225772). U.S. Department of Justice, National Institute of Justice. (citing FBI data and multiple state and local fatality reviews) <https://www.ncjrs.gov/pdffiles1/nij/225722.pdf>.

³¹ Klein (2009)

³² Klein (2009)

³³ “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.” Source: Campbell, R., Fehler-Cabral, G., Pierce, S., Sharma, D., Bybee, D., Shaw, J., Horsford, S., & Feeney, H. (2015). Detroit sexual assault kit (SAK) action research project (ARP). Final report to the National Institute of Justice. Award number 2011-DN-BX-0001. U.S. Department of Justice, National Institute of Justice. <https://www.ncjrs.gov/pdffiles1/nij/grants/248680.pdf>.

³⁴ Campbell, et. al. (2015), pp. iii-vi. For more research on the reasons some sexual assault kits were not submitted for testing, see: Campbell, R., Feeney, H., Fehler-Cabral, G., Shaw, J., & Horsford, S. (2017). The national problem of untested sexual assault kits (SAKs): Scope, causes, and future directions for research, policy, and practice. *Trauma, Violence, & Abuse*, 18(4), 363–376; and Campbell, R., Feeney, H., Pierce, S. J., Sharma, D. B., & Fehler-Cabral, G. (2018). Tested at last: How DNA evidence in untested rape kits can identify offenders and serial sexual assaults. *Journal of Interpersonal Violence*, 33(24), 3792–3814. Finally, a Sexual Assault Kit Initiative brief, *Case Connectivity Using DNA: How Testing Sexual Assault Kits Can Link Criminal Cases*, provides information on using CODIS to develop case connectivity: <https://www.sakitta.org/toolkit/docs/Case-Connectivity-Using-DNA-How-Testing-SAKs-Can-Link-Criminal-Cases.pdf>.

³⁵ It was reported in 2019 that testing all 11,000+ sexual assault kits in Detroit “led to hundreds of investigations and the identification of 824 suspected serial rapists. Altogether, 282 cases have been adjudicated, resulting in 197 convictions.” Source: <https://www.detroitnews.com/story/news/local/wayne-county/2019/08/13/detroit-touts-success-rape-kits-crisis/3770362002/>.

³⁶ See Lonsway, K. A., & Archambault, J. (2017). *Untested evidence and the investigation of cold sexual assault cases*. End Violence Against Women International. https://evawintl.org/wp-content/uploads/Module-14_Cold-Case.pdf; and Davis, R. C., Jurek, A., Wells, W., & Shadwick, J. (2021). Investigative outcomes of CODIS matches in previously untested sexual assault kits. *Criminal Justice Policy Review*, 32(8), 841–864. <https://doi.org/10.1177/0887403421990723>.

³⁷ Investigation of the Baltimore Police Department, U.S. Department of Justice, Civil Rights Division 122-123 (Aug. 10, 2016) [hereinafter BPD FL], available at <https://www.justice.gov/crt/file/883296/download>; Letter from Thomas Perez, Assistant Attorney General of the United States, to Hon. John Engen, Mayor of Missoula, Montana, 8, 13 (May 15, 2013) [hereinafter Missoula FL], available at https://www.justice.gov/sites/default/files/crt/legacy/2013/05/22/missoulapdfind_5-15-13.pdf; Investigation of the New Orleans Police Department, U.S. Department 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; and Int’l Ass’n of Chiefs of Police, Nat’l Law Enforcement Policy Ctr., *Sexual Assault Response Policy and Training Content Guidelines* (2017), available at

<https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines> and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>.

³⁸ Note: Case examples are used throughout this document to illustrate how gender bias can have an impact on the law enforcement response to sexual assault and domestic violence, and how aligning policies, practices, and training with the principles can mitigate those impacts. Some of the examples are purely fictional and others draw on real cases.

³⁹ See memorandum of understanding between the U.S. Department of Justice and City of Missoula Regarding the Missoula Police Department's Response to Sexual Assault 5 (May 15, 2013) [hereinafter Missoula MOU].

http://www.justice.gov/sites/default/files/crt/legacy/2013/05/15/missoulapdsettle_5-15-13.pdf; International Association of Chiefs of Police, Sexual Assault Incident Reports Investigative Strategies 5 (2005) [hereinafter IACP Sexual Assault Incident Reports]. <http://www.theiacp.org/portals/0/pdfs/SexualAssaultGuidelines.pdf>; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at

<https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines> and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>; and End Violence Against Women International, Training Bulletin: When to Conduct an Exam or Interview 3 (2013) [hereinafter EVAWI Training Bulletin]. http://www.ncdsv.org/images/EVAWI_When-to-conduct-an-exam-or-interview_6-2013.pdf.

⁴⁰ 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.

⁴¹ See generally, IACP's Sexual Assault Incident Reports: Investigative Strategies (2018); Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at

<https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines> and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>.

⁴² Missoula FL, *supra* note 28, at 8–9, 13; NOPD FL, *supra* note 28, at 43–44, 46–48.

⁴³ BPD Consent Decree, *supra* note xxiv, at 87–90; 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]. 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; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at <https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines> and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>; EVAWI Training Bulletin, *supra* note 29, at 3–4.

⁴⁴ Missoula MOU, *supra* note 29, at 5, 7; IACP Sexual Assault Incident Reports, *supra* note 29, at 4; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at

<https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>; and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>.

⁴⁵ BPD Consent Decree, *supra* note xxiv, at 88–89; Missoula MOU, *supra* note 29, at 5, 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., Sexual Assault Response Policy and Training Content Guidelines (2017), available at <https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>; and IACP Model Policy: Investigating Sexual Assaults (2017), available at

<https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>. 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].

<http://www.mincava.umn.edu/documents/acquaintsa/participant/drugfacilitated.pdf>.

⁴⁶ See National Center for Women and Policing Training Manual, *supra* 35, at 9–10.

⁴⁷ BPD Consent Decree, *supra* note xxiv, at 90; Missoula MOU, *supra* note xxv, at 7.

⁴⁸ BPD Consent Decree, *supra* note xxiv, at 88–89; Missoula MOU, *supra* note 29, at 5; IACP Sexual Assault Incident Reports, *supra* note 29, at 3, 7.

⁴⁹ 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., Intimate Partner Violence Response Policy and Training Guidelines (2018), available at: <https://www.theiacp.org/resources/document/intimate-partner-violence-response-policy-and-training-content-guidelines>; and IACP Model Policy: Domestic Violence (2019), available at: <https://www.theiacp.org/resources/policy-center-resource/domestic-violence>.

; 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].

<http://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=43>.

⁵⁰ See, for example, DePrince, A. P., Labus, J., Belknap, J., Buckingham, S., & Gover, A. (2012). The impact of community-based outreach on psychological distress and victim safety in women exposed to intimate partner abuse. *Journal of Consulting and Clinical Psychology*, 80, 211–221; Sullivan, C. M., Bybee, D.I., & Allen, N. E. (2002). Findings from a community-based program

for battered women and their children. *Journal of Interpersonal Violence*, 17, 915–936; BPD Consent Decree, *supra* note xxiv, at 90; Missoula MOU, *supra* note 29, at 7; IACP Sexual Assault Incident Reports, *supra* note 29, at 4.

⁵¹ BPD FL, *supra* xxiv, at 124-126; Missoula FL, *supra* note 28, at 7; NOPD FL, *supra* note 28, at 47-50; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at <https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>; and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>.

⁵² BPD Consent Decree, *supra* note xxiv, at 87-89; 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 Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at

<https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>; and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>; 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.

⁵³ Missoula MOU, *supra* note 29, at 5; NOPD CD, *supra* note 33, at 54-55; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Intimate Partner Violence Response Policy and Training Guidelines (2018), available at:

<https://www.theiacp.org/resources/document/intimate-partner-violence-response-policy-and-training-content-guidelines>; and IACP Model Policy: Domestic Violence (2019), available at: <https://www.theiacp.org/resources/policy-center-resource/domestic-violence>.

⁵⁴ NOPD CD, *supra* note 33, at 54; IACP Sexual Assault Incident Reports, *supra* note 29, at 7; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at

<https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>; and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>.

⁵⁵ 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).

⁵⁶ For information, see: *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs* at: https://www.lep.gov/sites/lep/files/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf.

⁵⁷ See Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs 8 & n.1 (August 2011). http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf (citing Department 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)).

⁵⁸ See, for example: Klemko, R. (2022, March 26). This police chief is hiring female officers to fix 'toxic' policing. *The Washington Post*. <https://www.washingtonpost.com/national-security/interactive/2022/women-police-nebraska/>. Discussed in this article is the 30x30 Initiative (30x30initiative.org), which addresses the underrepresentation of women in policing.

⁵⁹ BPD FL, *supra* xxiv, at 126-127; Missoula FL, *supra* note 28, at 8; NOPD FL, *supra* note 28, at 45-47.

⁶⁰ See, for example, Morabito, M. S., Williams, L. M., Pattavina, A. (2019). *Decision making in sexual assault cases: Replication research on sexual violence case attrition in the U.S.* U.S. Department of Justice, National Institute of Justice.

<https://www.ojp.gov/pdffiles1/nij/grants/252689.pdf>; and Spohn, C., & Tellis, K. (2019). Sexual assault case outcomes: Disentangling the overlapping decisions of police and prosecutors. *Justice Quarterly*, 36(3), 383–411, doi: 10.1080/07418825.2018.1429645.

⁶¹ BPD Consent Decree, *supra* note xxiv, at 91.

⁶² 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]. <https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=35>; EVAWI Training Bulletin, *supra* note 29, at 4-5.

⁶³ Missoula MOU, *supra* note 29, at 7; IACP Sexual Assault Incident Reports, *supra* note 29, at 2, 5; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at

<https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>; and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>; EVAWI Sexual Assault Cases, *supra* note 47, at 7; EVAWI Training Bulletin, *supra* note 29, at 3.

⁶⁴ 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 be retraumatizing. See *supra* note 33.

⁶⁵ BPD Consent Decree, *supra* note xxiv, at 91.

⁶⁶ 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 service providers, federal law enforcement, and U.S. Attorneys' 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 nongovernmental 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>.

⁶⁷ 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>.

⁶⁸ Missoula FL, *supra* note 28, at 10-11; NOPD FL, *supra* note 28, at 43, 50-51.

⁶⁹ IACP Sexual Assault Incident Reports, *supra* note 29, at 4-5; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Sexual Assault Response Policy and Training Content Guidelines (2017), available at <https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>; and IACP Model Policy: Investigating Sexual Assaults (2017), available at <https://www.theiacp.org/resources/policy-center-resource/sexual-assaults>.

⁷⁰ Culturally specific organizations are founded and operated by and for members of a particular cultural community.

⁷¹ NOPD CD, *supra* note 33, at 55.

⁷² NOPD FL, *supra* note 28, at 48.

⁷³ NOPD CD, *supra* note 33, at 58.

⁷⁴ Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Intimate Partner Violence Response Policy and Training Guidelines (2018), available at: <https://www.theiacp.org/resources/document/intimate-partner-violence-response-policy-and-training-content-guidelines>; and IACP Model Policy: Domestic Violence (2019), available at: <https://www.theiacp.org/resources/policy-center-resource/domestic-violence>.

⁷⁵ NOPD CD, *supra* note 33, at 58; IACP Domestic Violence Issues Paper, *supra* note 38, at 4; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., Intimate Partner Violence Response Policy and Training Guidelines (2018), available at: <https://www.theiacp.org/resources/document/intimate-partner-violence-response-policy-and-training-content-guidelines>; and IACP Model Policy: Domestic Violence (2019), available at: <https://www.theiacp.org/resources/policy-center-resource/domestic-violence>; 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).

⁷⁶ For examples of analogous LEA-community partnerships see Cleveland Consent Decree at 34 (requiring the Cleveland Police Department and City to develop a Mental Health Response Advisory Committee to foster relationships and build support between the police, the community, and mental health providers and to help identify problems and develop solutions designed to improve outcomes for individuals in crisis.). Available at:

https://www.justice.gov/sites/default/files/crt/legacy/2015/05/27/cleveland_agreement_5-26-15.pdf; Ferguson Consent Decree at 6 (requiring the City to establish a Neighborhood Policing Steering Committee that will provide input to FPD and the City on law enforcement issues). Available at: <https://www.justice.gov/opa/file/833431/download>; Baltimore Consent Decree at 8 (requiring Baltimore Police Department to solicit input from its advisory boards and councils representing particular communities, such as the Youth Advisory Board and the LGBT Advisory Council, on policies, practices, training, engagement programs, and enforcement strategies that affect the communities those advisory groups represent). Available at: <https://www.justice.gov/opa/file/925056/download>.

⁷⁷ Investigation of the Chicago Police Dep't, U.S. Dep't of Justice, Civil Rights Division 67-70 (Jan. 13, 2017) [hereinafter CPD FL], available at <https://www.justice.gov/opa/file/925846/download>; NOPD FL, *supra* note 28, at 92; Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., IACP Model Policy: Domestic Violence (2019), available at: <https://www.theiacp.org/resources/policy-center-resource/domestic-violence>, and Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide (2011), available at <https://www.theiacp.org/sites/default/files/all/a/AddressingSexualOffensesandMisconductbyLawEnforcementExecutiveGuide.pdf>.

⁷⁸ End Violence Against Women International, Model Policy Resource: Law Enforcement Sexual Misconduct Prevention and Accountability (Feb. 2020), available at https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESM-

[Prevention-and-Accountability.pdf](#); BPD Consent Decree, *supra* note xxiv, at 152-153; Ferguson Consent Decree, 66-67 (Apr. 19, 2016). <https://www.justice.gov/crt/file/883846/download>.

⁷⁹ End Violence Against Women International, Model Policy Resource: Law Enforcement Sexual Misconduct Prevention and Accountability (Feb. 2020), available at https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESM-Prevention-and-Accountability.pdf; BPD Consent Decree, *supra* note xxiv, at 152-152; Ferguson Consent Decree, 66-67 (Apr. 19, 2016). <https://www.justice.gov/crt/file/883846/download>.

⁸⁰ Int'l Ass'n of Chiefs of Police, Nat'l Law Enforcement Policy Ctr., IACP Model Policy: Domestic Violence (2019), available at: <https://www.theiacp.org/resources/policy-center-resource/domestic-violence>, Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide (2011), available at <https://www.theiacp.org/sites/default/files/all/a/AddressingSexualOffensesandMisconductbyLawEnforcementExecutiveGuide.pdf>, and Domestic Violence by Police Officers Concepts and Issues Paper 2, 6-7 (2003) [hereinafter IACP Domestic Violence by Police Officers Issues Paper].

<http://www.theiacp.org/Portals/0/documents/pdfs/MembersOnly/DomesticViolencebyPolicePaper.pdf>; End Violence Against Women International, Model Policy Resource: Law Enforcement Sexual Misconduct Prevention and Accountability (Feb. 2020), available at https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESM-Prevention-and-Accountability.pdf.

⁸¹ See, for example, Policy 322, Member-Involved Sexual Misconduct, Baltimore Police Department 3 (Dec. 7, 2020); End Violence Against Women International, Model Policy Resource: Law Enforcement Sexual Misconduct Prevention and Accountability (Feb. 2020), available at https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESM-Prevention-and-Accountability.pdf; and IACP, Addressing Sexual Offenses and Misconduct By Law Enforcement: Executive Guide 11 (June 2011).

⁸² 18 U.S.C. § 242 criminalizes the willful deprivation of constitutional rights under color of law, and this includes sexual assault and other non-consensual sexual contact. See “Investigating and Prosecuting Law Enforcement Sexual Misconduct Cases,” (Jan. 2018), <https://evawintl.org/wp-content/uploads/242SexualMisconduct-USABulletin.pdf>. In conjunction with Section 242, 18 U.S.C. § 250 provides penalties for civil rights offenses, including involving sexual misconduct.

⁸³ CPD FL, *supra* note lvii, at 155.

⁸⁴ Some LEAs are training officers on their duty to intervene when witnessing wrongful acts or mistakes by their fellow officers. See, for example, the Ethical Policing is Courageous (EPIC) training: <https://epic.baltimorepolice.org/epic>.

⁸⁵ End Violence Against Women International, *Model Policy Resource: Law Enforcement Sexual Misconduct Prevention and Accountability* (Feb. 2020), available at https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESM-Prevention-and-Accountability.pdf.

⁸⁶ BPD FL, *supra* xxiv, at 127.

⁸⁷ U.S. Department of Justice. (2011, March). *Investigation of the New Orleans Police Department*, p. 45. https://www.justice.gov/sites/default/files/crt/legacy/2011/03/17/nopd_report.pdf.

⁸⁸ Klein (2009)

⁸⁹ Klein (2009)

⁹⁰ Minneapolis Star Tribune. (2018, January 25). *When rape is reported and nothing happens: How Minnesota's criminal Justice system has failed victims of sexual assault*. <https://www.startribune.com/denied-justice-series-when-rape-is-reported-and-nothing-happens-minnesota-police-sexual-assault-investigations/487400761/#credits>.

⁹¹ BPD Consent Decree, *supra* note xxiv, at 92; NOPD CD, *supra* note 33, at 54-60.

⁹² *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)).

⁹³ *Id.*

⁹⁴ *Bell v. Maryland*, 378 U.S. 266, 310 n. 31 (1964) (Goldberg, J., concurring) (internal citation omitted).

⁹⁵ 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).

⁹⁶ 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 unpunished); *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 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). Additionally, when a law enforcement officer commits sexual harassment or abuse during the course of his or her official duties, this misconduct violates the victim's Due Process rights. See, e.g., *Fontana v. Haskin*, 262 F.3d 871, 882 (9th Cir. 2001) ("Sexual misconduct by a police officer toward another generally is analyzed under the Fourteenth Amendment; sexual harassment by a police officer of a criminal suspect during a continuing seizure is analyzed under the Fourth Amendment."); *Doe v. Claiborne Cty.*, 103 F.3d 495, 507 (6th Cir. 1996) ("If the 'right to bodily integrity' means anything, it certainly encompasses the right not to be sexually assaulted under color of law."); *Haberthur v. City of Raymore, Mo.*, 119 F.3d 720, 723-24 (8th Cir. 1997) (nonconsensual sexual fondling by an on-duty, uniformed police officer violated the victim's substantive due process right to bodily integrity); *Jones v. Wellham*, 104 F.3d 620, 628 (4th Cir. 1997) (police officer violated victim's 14th Amendment due process rights by raping her after a traffic stop).

⁹⁷ See *United States v. Classic*, 313 U.S. 299, 326 (1941); *Screws v. United States*, 325 U.S. 91, 111 (1945).

⁹⁸ See, e.g., *Gwynn v. TransCor Am., Inc.*, 26 F. Supp. 2d 1256, 1265-66 (D. Colo. 1998) (privately-contracted transport officer acted under color of law when he sexually assaulted an inmate in his custody).

⁹⁹ See, e.g., *Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 297 (2001) (state university is "undoubtedly [a] state actor"); *Jennings v. University of North Carolina*, 482 F.3d 686, 701 (4th Cir. 2007) (en banc) (crediting evidence that defendant acted "in his capacity as a coach" at state university was evidence that defendant was a state actor); *Hayut v. SUNY*, 352 F.3d 733, 744 (2d Cir. 2003) ("We think it clear that a professor employed at a state university is a state actor."); *Krynicky v. Univ. of Pittsburgh*, 742 F.2d 94, 99 (3d Cir. 1984) ("[A]ctions of the University are actions taken under color of state law for purposes of section 1983.");

Popat v. Levy, 328 F. Supp. 3d 106, 127 (W.D.N.Y. 2018) ("[A] professor employed at a state university is a state actor." (citation omitted));

Watson v. Richmond Univ. Med. Ctr., 412 F. Supp. 3d 147, 165 (E.D.N.Y. 2017) ("[S]tate employment is generally sufficient to render a defendant a state actor under section 1983." (internal citation omitted));

¹⁰⁰ See, e.g., *West v. Atkins*, 487 U.S. 42, 54 (1988) (finding that a physician who was under contract with a state prison hospital to provide medical services to inmates acted under color of law)

¹⁰¹ *United States v. Lanier*, 520 U.S. 259 (1997).

¹⁰² 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.)