

IMPROVING LAW ENFORCEMENT RESPONSE TO SEXUAL ASSAULT AND DOMESTIC VIOLENCE BY IDENTIFYING AND PREVENTING GENDER BIAS

Recognizing and mitigating bias in the law enforcement response to sexual assault and domestic violence is critical to law enforcement agencies' (LEAs') ability to protect and serve their communities. The Department of Justice issued updated guidance in May 2022 to help LEAs prevent gender bias and other biases from compromising the response to, and investigation of, these crimes.

The guidance, using case examples, advises LEAs to incorporate eight principles into clear policies, robust training, effective supervision, and strong accountability systems. This document is a brief version of the full guidance, highlighting the key points of each principle.

What is bias?

A bias is a tendency, inclination, or prejudice toward or against people or groups, often based on stereotypes or assumptions. Everyone has biases. Bias can be implicit, meaning the person who has the bias is not aware of it; or bias can be explicit, meaning it is expressed intentionally.

Bias and discrimination in the law enforcement response 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 how resources are allocated, such as when investigators who handle sexual assault cases manage significantly higher caseloads than investigators who handle narcotics or burglary cases.



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.

Assumptions and stereotypes about how people should act when they have suffered sexual assault or domestic violence affect how law enforcement officers (LEOs) judge a victim's credibility, and how they judge if a report merits police attention. These assumptions can have an impact on how an LEO treats a person reporting a crime and how the case is handled. Stereotypes about people based on sex, gender identity, race, ethnicity, sexual orientation, disability, immigration status, or involvement in the commercial sex trade can impede law enforcement's response to violent crime. Policies, procedures, training, and supervision must ensure that bias does not thwart justice and further jeopardize victim and community safety.

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.

LEOs can conduct effective victim interviews when they take a trauma-informed approach, asking open-ended questions in a non-judgmental way. Interviews are more likely to elicit facts that will help with the investigation if a victim does not feel their credibility is being challenged, when LEOs understand that the victim cannot deliver a full and sequential narrative, and when the victim can comfortably disclose sensitive details about what happened, including aspects of the assault and the victim's own actions (e.g., alcohol consumption).

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 / etc.?"• "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?"	<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."• "I'm sorry this happened, and I commend you for reporting it. Your health and safety are a priority. How can I support you?"

Principle 3: Ensure that policies, training, supervision, and resource allocation support thorough and effective investigations.

Collect, preserve, and analyze evidence.

LEAs should have clear guidelines for investigating sexual assault and domestic violence. Guidelines should, at a minimum, address evidence collection and preservation, trauma-informed interviewing, prompt submission of sexual assault kits to a crime laboratory and timely testing of kits, identification and documentation of victim injuries (including strangulation), and separate interviews with all potential witness and suspects. LEOs should be trained to adhere to these guidelines. Guidelines should be collaboratively developed with and reviewed by community partners.

Principle 4: Appropriately classify reports of sexual assault or domestic violence.

And appropriately document and clear them after a complete investigation.

LEAs should have clear policies about classifying and clearing cases. LEOs should be familiar with those policies and knowledgeable about the elements of sexual assault and domestic violence offenses. Training and supervision should help ensure that reports are thoroughly investigated and are not classified as unfounded, or cleared by exceptional means, unless the respective criteria for those classifications are met.

Principle 5: Refer victims to appropriate services.

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

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. Officers should connect victims with local services regardless of whether the victim chooses to continue assisting law enforcement with an investigation, and no matter the disposition of the case. LEAs’ policies should also ensure victims have prompt access to medical forensic exams. LEAs can enable effective referral-making by establishing and maintaining relationships with community partners.

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 re-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 properly conduct investigations. 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>.

Principle 6: Properly identify the predominant aggressor in domestic violence incidents.

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

It is common in domestic violence incidents for both the abuser and the victim to have used physical force. Therefore, officers must be trained to identify the predominant aggressor and to avoid making dual arrests. When a victim of ongoing abuse is arrested for retaliating in self-defense—or for “hitting first” during the incident to which police are responding—it leaves the victim vulnerable to further harm

and less likely to call for police assistance in the future. Arresting victims also creates legal troubles for people at the same time they are in urgent need of protection.

To the extent permitted by law, officers should evaluate what they *should* do in responding to an incident, rather than merely what they *can* do. A victim may want police intervention to deescalate a dangerous situation, but not want their abusive partner arrested. Appropriate training can help officers determine the best course of action when responding to domestic violence incidents.

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.

At a minimum, policies should require opening an internal investigation when there is a report of sexual misconduct or domestic violence—whether on-duty or off-duty—by an officer, and making appropriate referrals to a prosecutor’s office. LEAs should implement early warning systems to identify officers whose behavior is cause for concern and target interventions accordingly. Policies and training, as well as communication from police leaders, should make clear that officers have a duty to report misconduct by their fellow officers. Officers who do report misconduct must be supported and protected from retaliation.

Principle 8: Maintain, review, and act on 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.

LEAs, in collaboration with multidisciplinary teams (such as a Sexual Assault Response Team), should review their crime, call for service, case file, and other data alongside data from the prosecutor’s office and victim services providers. Data can reveal patterns in the incidence of sexual assault and domestic violence in the community, and how cases progress or can languish in the justice system. Observations about the data should inform decisions about policy-setting, training, staffing, and supervision of officers.

Read the full guidance and find resources to help implement the principles at:
www.justice.gov/ovw/policing-guidance
