The Department of Justice Guidance on Gender-Biased Policing and Law Enforcement Response to Domestic Violence and Sexual Assault:

A New Tool to Identify and Eliminate Gender Bias and Reform Police Practices

Guidance from the Department of Justice (DOJ) on gender-biased policing of domestic violence and sexual assault crimes was issued in December 2015 provides a new tool for advocates, community members, law enforcement and other stakeholders to address discriminatory policing and uphold the civil and human rights of domestic violence and sexual assault survivors.

Endorsed by the Police Executive Research Forum and the International Association of Chiefs of Police, the Guidance provides a set of principles that—if integrated into law enforcement policies and practices—will help ensure the safety of victims and hold offenders accountable.

Read The Department of Justice Guidance
http://1.usa.gov/1ZaiHie

What Is Gender-Biased Policing?

There is little doubt that many police officers across the country do their jobs with professionalism, integrity, and care. At the same time, investigations by the Department of Justice, advocates, and others have revealed the chronic and systemic patterns of bias that exist in police departments when individuals, predominantly women but also some men, seek police assistance in domestic violence and sexual assault cases.

Gender-biased policing is most prevalent in domestic violence and sexual assault cases. The term encompasses police practices and policies that result from underlying (conscious or unconscious) gender stereotypes, have a discriminatory and disproportionate impact on women, and subject women and LGBT people to harassment, violence, hostility, or dismissiveness by police officers.

Examples of gender-biased policing include:

- Failing to properly investigate or misclassifying domestic violence and sexual assault complaints before a full investigation is conducted because of the victim’s gender, sexual orientation, dress, sexual history, criminal history, or emotional state, or appearance;
• Failing to test sexual assault kits in a timely manner;
• Discounting intimate partner violence against LGBT individuals because it is committed against a same sex partner;
• Failing to hold police officers accountable when they have committed domestic violence or sexual assault, permitting them to remain in positions of power; and
• Harassing transgender people, particularly trans women of color, because of their gender identity.

The need to ensure that policing is free of gender bias is critical. Calls regarding domestic violence constitute the single largest category of calls received by police departments; yet, two in three domestic violence survivors surveyed by a national hotline said they were afraid to call the police. Sexual misconduct is the second most common form of police misconduct that leads to officer dismissals. In issuing the Guidance, the Department of Justice clearly declared that police misconduct, when responding to domestic violence and sexual assault complaints, is a civil rights issue.

Read More About Gender-Biased Policing

How Can the Guidance Help Eliminate Police Bias?

Guidance from the Department of Justice (DOJ) on gender bias was issued in December 2015 and provides advocates with a new and powerful tool to address discriminatory policing. The ACLU, along with numerous other civil and human rights organizations and domestic violence and sexual assault advocates, pushed DOJ for more than three years to issue this Guidance.

The DOJ Guidance can be used to identify and address gender-biased policing. It establishes a framework that law enforcement leaders, advocates, and survivors can jointly use to prevent discriminatory policing of domestic and sexual violence.

The Guidance highlights eight principles for police reform that can be used to address bias in many contexts in which the ACLU is currently working:

1. **Recognize and address biases:**
   The Guidance discusses how conscious and unconscious gender and racial biases can put women and LGBT survivors of color at particular risk of discriminatory policing and how policies, procedures, and training should be reviewed and designed to prevent biased policing.

2. **Treat all victims with respect:**
   The Guidance stresses the importance of using trauma-informed interviewing techniques.
3. **Investigate complaints thoroughly and effectively:**
   The Guidance describes how departments must put into place clear guidelines on how to conduct investigations.

4. **Appropriately classify reports of sexual assault and domestic violence:**
   The Guidance details the need for departments to revise their policies and procedures to ensure that complaints are properly documented and only classified as non-criminal or unfounded after full investigations.

5. **Refer victims to appropriate services:**
   The Guidance calls for timely and appropriate referrals by officers to medical professionals, crisis centers, shelters, legal services organizations, and other community-based resources.

6. **Properly identify the assailant in domestic violence incidents:**
   The Guidance discusses how officers should conduct predominant aggressor analysis.

7. **Hold law enforcement officers accountable for misconduct:**
   The Guidance underscores the importance of accountability for officers who commit sexual assault or domestic violence through the development of policies and practices that require investigations whenever an allegation is made (regardless of whether the officer was acting in his official capacity) and referrals for potential criminal activity to prosecutors.

8. **Maintain and review police data:**
   The Guidance calls on police departments to gather their own data on domestic violence and sexual assault to assess whether bias may be affecting their responses. It notes that departments may be engaged in problematic policing if they have higher reported rates of homicide than sexual assault, or if fewer than two-thirds of domestic violence incidents are classified as assaults and instead are classified as less serious infractions, such as disorderly conduct.

**DOJ recommends that these 8 principles be integrated into law enforcement in the following ways:**

- Adopting clear, written policies about proper handling of sexual assault and domestic violence crimes;
- Training for officers about these policies and about effective responses to sexual assault and domestic violence more generally;
- Supervision protocols and systems of accountability to ensure that officers responding to sexual assault and domestic violence crimes act in accordance with these policies and training.
How Can The Guidance Advance Constitutional Policing?

This new DOJ Guidance presents a unique opportunity for advocates and law enforcement agencies to join together to discuss reforms in police training, policies and practices necessary to prevent gender bias. The Guidance represents the latest and most authoritative thinking of DOJ on the application of civil rights laws to effective policing of domestic violence and sexual assault.

Possible advocacy using the Guidance could include the following:

- Include information on gender-biased policing in Know Your Rights and other community outreach materials;

- Send a letter to key police departments in your state, informing them of the Guidance and asking them to share their plans for implementation;

- Advocate that police departments adopt policies on domestic and sexual violence committed by police officers;

- Document gender-biased policing through open records requests and/or conversations with domestic and sexual violence groups, and work with national ACLU to explore administrative and litigation possibilities, including requesting a DOJ investigation pursuant to its pattern or practice authority;

- Seek endorsement of the Guidance from local chapters of law enforcement organizations such as the National Organization of Black Law Enforcement;

- Ensure that police accountability mechanisms (e.g., civilian oversight, external reviews) are used to address gender-biased policing;

- In jurisdictions where DOJ is conducting an investigation, ensure that the investigation thoroughly considers gender-biased policing practices; and

- Push for greater data collection and publication on gender-biased policing.
Resources:

[Add local ACLU affiliate contact info in addition to or in lieu of national contacts below.]

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Department of Justice Guidance on Identifying and Preventing Gender Bias in Law Enforcement  
http://1.usa.gov/1ZaiHie

Responses From The Field: Sexual Assault, Domestic Violence, and Policing (Highlights & Full Report)  
www.aclu.org/responsesfromthefield

Department of Justice Identifying And Preventing Gender Bias Resources  
http://1.usa.gov/1XxvPMm

Understanding Gender-Biased Policing  