

NEW ERA OF PUBLIC SAFETY

AN ADVOCACY TOOLKIT FOR FAIR, SAFE,
AND EFFECTIVE COMMUNITY POLICING



**SEXUAL HARASSMENT
AND ASSAULT BY LAW
ENFORCEMENT OFFICERS**

**Sexual assault and
intimate partner violence
are problems that
demand our attention.**



Movements against sexual misconduct (incl., harassment and violence) against women are gaining visibility in the news media through hashtags like #MeToo, #WhyIDidntReport, and #BelieveSurvivors. Sexual misconduct by officers, however, has not received enough attention. Incidents involving officers can go unreported because survivors fear retaliation or that the case will not be properly investigated.

Sexual misconduct by police officers is an abuse of power and authority. Police officers frequently target women of color, gender nonconforming people, LGBTQ people, youth, survivors of and witnesses to violence, undocumented immigrants, people with mental and developmental disabilities, religious and ethnic groups, low-income people, people experiencing homelessness, and people who are or are believed to be part of the drug or sex trades or other criminalized or informal economies for sexual harassment and assault.⁵⁸ Beyond holding individual officers accountable, we need to develop and implement effective methods to prevent and detect misconduct and support survivors.

The President's Task Force on 21st Century Policing, the Department of Justice, and the International Association of Chiefs of Police recommend that law enforcement agencies adopt policies to effectively prevent, detect, and ensure accountability for sexual misconduct by law enforcement officers.⁵⁹

Key Challenges

Prevalence of the problem:

Sexual harassment and assault by police officers are pervasive and systemic problems, yet they are underreported and under-investigated.

Lack of policies:

Many police departments' policies do not specifically prohibit officers from sexually harassing members of the public or engaging in sexual conduct while on duty. Departments generally do not address these issues in training. All departments have policies governing sexual harassment among employees, as required by federal law, but these policies do not apply to the public. This is the case even though officers exercise tremendous power over the people with whom they interact in their official capacity (e.g., community members, people suspected of criminal activity, survivors of sexual or intimate partner violence, witnesses, and youth involved in community engagement programs).

Lack of accountability:

Internal investigations of complaints of sexual misconduct by officers can be intimidating for accusers and are incomplete when investigators do not take accusations seriously.

Making Change

Adopt comprehensive policies.

Police departments should be required by law to adopt and enforce policies to effectively prevent, detect, and hold officers accountable for sexual misconduct. Policies and laws should contain clear disciplinary measures for officers who violate policy, up to and including termination and revocation of a law enforcement license. Such policies should be made publicly available online in alternative and accessible formats.

Take proper precautions to protect community members.

Specially trained investigators and trauma specialists should interview survivors of intimate partner violence and sexual misconduct by police officers. Departments must take steps to protect survivors — whether they are community members, family members of police officers, or police officers who report colleagues — from retaliation.

Monitor officer behavior for potential sexual misconduct.

Departments should closely monitor officers who make disproportionate numbers of stops of people of color, women, transgender people, gender nonconforming people, and people experiencing homelessness. They should also monitor unauthorized detours when transporting detainees;

unnecessary callbacks and communications with survivors and witnesses; and inappropriate contact with youth in schools and engagement programs.

Collect and publish data.

Police departments should analyze, and make publicly available online in alternative and accessible formats, information about community members' verified complaints of sexual misconduct by officers. This information should include the race and ethnicity, age, and gender of complainants, as well as the context and location in which the conduct allegedly occurred, name of the officers involved, and the steps the department is taking to prevent future sexual misconduct by police officers.

Comply with the Prison Rape Elimination Act (PREA).⁶⁰

Police departments that operate holding facilities — even if they just temporarily hold people before being transferred to a jail — must comply with the standards established by the PREA for police lockups.⁶¹

The Prison Rape Elimination Act was passed in 2003 and is the first United States federal law intended to deter the sexual assault of prisoners. More information can be found at www.prearesourcecenter.org/

How to Advocate for Change

Change the law.

Urge your state and local legislators to pass laws that:

- + Prohibit officers from abusing their authority by committing acts of sexual misconduct while acting under color of law.
- + Mandate officers to forfeit their employment upon a criminal conviction or administrative finding of sexual misconduct.
- + Require police departments to pass and effectively enforce policies to prevent, detect, and ensure accountability for sexual misconduct of members of the public by law enforcement agents.
- + Require police departments to annually report how many complaints of sexual misconduct by officers they received and investigated, and that have resulted in discipline.

Demand policy change.

Demand that your local police department immediately pass and effectively enforce policies to prevent, detect, and ensure accountability for sexual misconduct of community members by officers.

Demand community oversight.

If your jurisdiction has a community/civilian oversight agency, urge it to take over investigations of sexual misconduct. Survivors of sexual harassment assault by police officers should have the right to have their complaints investigated and adjudicated by an agency other than the one that employs the person who assaulted or harassed them, and to pursue accountability through an administrative mechanism that is not controlled by the police.

Organize around the release of data.

Demand that your local department and community/civilian oversight board report annually on the number of complaints of sexual misconduct by officers that were received and investigated, and that have resulted in discipline, which may require changing the law. (See above.)

Talking Points

Safety from sexual harassment and assault requires strong policies preventing police sexual misconduct.

Public safety depends on a strong statement in policy and practice that sexual assault, harassment, extortion, or violence by police officers against community members is not tolerated.

Proactive prevention is essential.

It is not enough to have a written policy and to discipline officers if they are caught. Department leaders must take proactive steps to prevent sexual misconduct by police officers through close supervision and monitoring of how officers:

- Conduct traffic stops
- Respond to intimate partner violence and sexual assault
- Address offenses related to prostitution
- Address “broken windows” offenses
- Behave if stationed in schools
- Interact with the community in community engagement programs (including “Explorer” programs)
- Interact with immigrant communities
- Act in other contexts in which sexual misconduct by police officers is prevalent

Explorer programs are community engagement programs placing youth with law enforcement agencies in “shadowing” roles.

Prosecution is not enough.

It is not enough for police departments to rely on criminal prosecutions of officers when survivors of sexual misconduct come forward. Many survivors never come forward; this is especially true of survivors of sexual assault by police officers, who are particularly unlikely to come forward out of fear of not being believed, retaliation, or lack of protection. In many cases, survivors have no evidence — it is their word against the officer’s. This is because sexual harassment and assault take place out of public view, and because threats of force, including lethal force, and threats of law enforcement action can be used to secure compliance. Prevention and detection are key to advancing public safety.

Overcoming Opposition

The Opposition:

“Sexual harassment and assault are against the law. We do not need to tell police officers not to commit these crimes.”

Overcoming the Opposition (1):

“This is true of many things addressed in police department policy — like use of excessive or lethal force. Department policies provide specific guidance on the application of the law to particular situations and make a clear statement of the department’s values and intention to hold violators accountable.”

Overcoming the Opposition (2):

“Sexual harassment and assault are already against the law, so there is no harm in police department policy reiterating this fact to ensure everyone’s safety.”

Overcoming the Opposition (3):

“Police officers and the public are entitled to receive clear guidance about what constitutes sexual misconduct by police officers, and what actions police departments are taking to prevent, detect, and hold officers and supervisors accountable for violations of individuals’ rights and the public trust.”



IX. ENDNOTES

III. I am Concerned

About ...

⁵⁸ Ritchie, A. J. (2017). *Invisible No More: Police Violence Against Black Women and Women of Color*. Beacon Press.

⁵⁹ See "Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence." Department of Justice. Retrieved from <https://www.justice.gov/opa/file/799366/download>; also see "Addressing Sexual Offenses and Sexual Misconduct by Law Enforcement." International Association of Chiefs of Police. June 2011. Retrieved from <https://www.theiacp.org/sites/default/files/all/a/AddressingSexualOffensesandMisconductbyLawEnforcementExecutiveGuide.pdf>.

⁶⁰ See National PREA Resource Center. <https://www.prearesourcecenter.org/>.

⁶¹ See "Prison Rape Elimination Act Lockup Standards." United States Department of Justice. May 17, 2011. Retrieved from https://www.prearesourcecenter.org/sites/default/files/content/preafinalstandardstype-lockups_0.pdf.



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