



U.S. Department of Justice
Civil Rights Division
Protecting the Rights of LGBTI Individuals

Protecting the Rights of Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Individuals

LGBTI Working Group
Civil Rights Division
U.S. Department of Justice
October 2016



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“ [W]e are committed to standing on the side of equality – and standing with the LGBT community – to keep up the fight for safety, opportunity, dignity and justice for all.”

—Attorney General Loretta Lynch, Statement on the U.S. Supreme Court Ruling in *Obergefell v. Hodges*, June 26, 2015



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“Let me also speak directly to the transgender community itself. Some of you have lived freely for decades. Others of you are still wondering how you can possibly live the lives you were born to lead. But no matter how isolated or scared you may feel today, the Department of Justice and the entire Obama Administration wants you to know that we see you; we stand with you; and we will do everything we can to protect you going forward.”



—Attorney General Loretta Lynch, May 9, 2016



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Terminology

- **LGBTI:** Lesbian, Gay, Bisexual, Transgender, and Intersex
 - **Transgender:** when someone's gender identity does not match their assigned sex at birth
 - **Gender identity:** an internal sense of being male or female
 - **Pronouns:** always use an individual's preferred pronouns (he/she)
 - **Intersex:** umbrella term for over three dozen conditions; also referred to as DSD or Differences of Sex Development
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The Division's LGBTI Working Group

- Advises the Division's leadership on legal and policy issues relating to sexual orientation, gender identity, and discrimination based on HIV/AIDS;
 - Explores how existing civil rights laws might address discrimination experienced by LGBTI individuals and identifies appropriate matters and cases for the Division;
 - Provides technical assistance and conducts outreach to other Department components, to other federal agencies, and to relevant stakeholders; and
 - Assists the Department with various diversity and education initiatives.
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Fighting Sex Discrimination

- The Division enforces a number of federal laws that prohibit various forms of discrimination in areas covering education, employment, housing, police practices, and other Department-funded programs.
 - Although most of these laws do not explicitly refer to sexual orientation or gender identity, many prohibit **sex discrimination**.
 - **Sex discrimination:** protects all people (including LGBTI people) from gender-based discrimination
 - **Gender-Based Discrimination:** includes discrimination based on gender identity, transgender status, and nonconformity with gender stereotypes
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Fighting Employment Discrimination

The Division enforces Title VII of the Civil Rights Act of 1964 against public employers. Title VII prohibits:

- Discrimination in the workplace on the basis of sex (among other factors), with respect to recruitment, hiring, assignments and promotions, and pay and benefits;
- Gender-based harassment; and
- Retaliation for complaining about discrimination.

The Equal Employment Opportunity Commission (EEOC) investigates complaints of employment discrimination:
www.eeoc.gov; 1-800-669-4000 or 1-800-669-6820 (TTY).



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Title VII and Gender Identity / Transgender Status Claims

- In December 2014, the Attorney General issued a memorandum to the Department clarifying that it is the position of the United States that the prohibition on sex discrimination in Title VII “encompasses discrimination based on gender identity, including transgender status.”
 - “The most straightforward reading of Title VII is that discrimination ‘because of . . . sex’ includes discrimination because an employee’s gender identification is as a member of a particular sex, or because an employee is transitioning, or has transitioned to another sex.”
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Recent DOJ Enforcement Actions

- ***United States et al. v. Southeastern Okla. St. Univ. et al. (W.D. Okla.)***: In March 2015, the United States filed a Title VII action alleging that the defendants discriminated against a transgender professor, Dr. Rachel Tudor, when they (1) denied her application for promotion and tenure, and (2) refused to let her reapply for promotion and tenure.
 - The complaint alleged that the defendants discriminated against Dr. Tudor because of her gender identity, gender transition, and non-conformance with sex stereotypes—which are all forms of sex discrimination.
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Recent DOJ Court Filings

- ***Burnett v. City of Philadelphia-Free Library, et al.*** (E.D. Pa.): A transgender employee filed suit alleging that she was harassed and discriminated against in violation of Title VII.
 - On April 4, 2014, the United States filed a Statement of Interest explaining that, like all plaintiffs, transgender individuals may show that discrimination grounded in gender stereotypes is discrimination “because of . . . sex,” in violation of Title VII.
 - The United States further explained that the Supreme Court in *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), recognized that Title VII’s prohibition of discrimination “because of . . . sex” means “that gender must be irrelevant to employment decisions.”
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Recent DOJ Court Filings (cont.)

- ***Jamal v. SAKS Fifth Avenue*** (S.D. Tex.): A transgender employee filed suit alleging that she was harassed and otherwise discriminated against by her managers and colleagues, retaliated against for complaining about that discrimination, and ultimately fired.
 - In January 2015, the Department filed a Statement of Interest in support of the employee's opposition to defendant's motion to dismiss her claim, arguing that Title VII's prohibition on sex discrimination encompasses discrimination against an individual:
 - Based on gender identity and, in particular, transgender status.
 - For failure to conform to sex stereotypes.
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Discrimination Against LGBT Students

The Division enforces:

- Title IV of the Civil Rights Act of 1964, which prohibits discrimination against students on the basis of sex (among other factors) in public schools, colleges, and universities; and
- Title IX of the Education Amendments of 1972, which prohibits sex discrimination in federally funded education programs and activities.

Both laws prohibit discrimination, including harassment, based on gender identity, transgender status, and nonconformity with gender stereotypes.

- **It Gets Better:** www.justice.gov/crt/about/edu/it_gets_better.php
 - **Additional Federal Resources:** StopBullying.gov
 - **To file a complaint:** www.justice.gov/crt/about/edu/
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Recent DOJ Enforcement Actions

- In March 2012, the Department settled *Doe, et al. v. Anoka-Hennepin School Dist., et al.*, with a consent decree resolving the Department's investigation into a complaint alleging that students in Minnesota's largest school district were being harassed by other students because they didn't dress or act in ways that conformed to gender stereotypes. Many students reported that the unsafe and unwelcoming school climate inhibited their ability to learn.
 - The consent decree requires the district to hire an expert consultant to assist in revising policies and procedures and to conduct training for staff and students.
 - The decree also requires the district to hire a mental health expert to help address the needs of students targeted by harassment.
 - The Department is monitoring the district's implementation of the decree.
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Recent DOJ Enforcement Actions (cont.)

- In July 2013, the Department entered into a settlement agreement with the **Arcadia Unified School District** in Arcadia, Calif., to resolve allegations of discrimination. A student, who began to consistently assert his male gender identity and had commenced a gender transition from female to male in fifth grade, was prohibited from using sex-specific restroom and locker room facilities designated for boys during his sixth and seventh grade years, as well as from staying in a cabin with other male students on a school trip. Under the agreement, the district agreed to:
 - Take steps to ensure that the student will be treated like other male students while attending school in the district.
 - Adopt district-wide measures to create a safe, nondiscriminatory learning environment for students who are transgender or do not conform to gender stereotypes.
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Recent DOJ Court Filings

- ***Tooley v. Van Buren Public Schools*** (E.D. Mich.): A Detroit-suburbs student filed suit at age fourteen alleging that he was discriminated against based on his transgender status by several area school districts. He alleged that he was forced to use the ladies room and violently bullied by classmates. He further alleged that he fractured his elbow while fleeing peers who called him a “fag” and threatened to “rape him straight.”
 - In February 2015, the Department filed a Statement of Interest advising the court that federal civil rights laws prohibiting sex discrimination, including Title IX, protect students from discrimination based on their gender identity.
 - The United States stated that a person may establish sex discrimination through discriminatory conduct based on gender identity or transgender status, regardless of whether there is evidence of sex stereotyping.
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Recent DOJ Court Filings (cont.)

- ***G.G. v. Gloucester Public School District*** (E.D. Va.): G.G., a high school junior in Virginia, filed suit alleging that he had been permitted to use the boys' restrooms for several weeks until the Gloucester County School Board passed a board policy restricting the use of facilities to "biological gender." At the board meeting, members of the community allegedly called G.G. a "freak" and "young lady," and compared him to a person who thinks he is a "dog" and wants to urinate on fire hydrants.
 - In June 2015, the Department filed a Statement of Interest advising the courts that federal civil rights laws prohibiting sex discrimination, including Title IX, protect students from discrimination based on their gender identity.
 - The United States further argued that there is a public interest in ensuring that all students, including transgender students, have the opportunity to learn in an environment free of sex discrimination.
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Recent DOJ Court Filings (cont.)

- In October 2015, the Department filed an amicus brief in the U.S. Court of Appeals for the Fourth Circuit in *G.G. v. Gloucester County School Board*, setting forth the United States' view, consistent with our interpretation of Title VII, that the prohibition on sex discrimination in Title IX encompasses discrimination based on transgender status.
 - The brief, filed in conjunction with the Department of Education, argued that denying a transgender male student access to the boys' restroom simply because he is transgender is sex discrimination in violation of Title IX.
 - On April 19, 2016, the Court of Appeals held that, in denying G.G.'s request for a preliminary injunction, the District court did not accord appropriate deference to the government's interpretation that its Title IX regulations require schools to allow students to use bathrooms consistent with their gender identity.
 - *Gloucester County School Board petitioned for a Writ of Certiorari to the U.S. Supreme Court; in October 2016, the Supreme Court agreed to hear the case.*
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Recent DOJ Court Filings (cont.)

- On March 23, 2016, the North Carolina General Assembly convened a special session for the purpose of passing **House Bill 2** (H.B. 2); H.B. 2 was signed by Governor Pat McCrory the same day. H.B. 2 requires public agencies to deny transgender persons access to multiple-occupancy bathrooms and changing facilities consistent with their gender identity.
 - On May 9, 2016, the Justice Department filed a federal civil rights lawsuit against the **State of North Carolina**, Governor Pat McCrory, the North Carolina Department of Public Safety, and the University of North Carolina seeking a court order declaring H.B. 2's restroom restriction impermissibly discriminatory, as well as a statewide bar on its enforcement.
 - The complaint brings claims under Title VII (employment), Title IX (education), and the Violence Against Women Reauthorization Act of 2013 (VAWA).
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DOJ & ED Guidance

- In recent years, the U.S. Departments of Justice and Education have received an increasing number of questions from parents, teachers, principals, and school superintendents about how to best ensure that transgender students, as well as non-transgender students, can all enjoy a safe and discriminatory-free educational environment.
 - In response, on May 13, 2016, the departments issued joint guidance (also known as a “Dear Colleague Letter”) to educational institutions under Title IX of the Education Amendments of 1972. As explained in the Dear Colleague Letter, both departments treat a student’s gender identity as the student’s sex for purposes of enforcing Title IX.
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DOJ & ED Guidance (cont.)

- The Dear Colleague Letter:
 - Explains that when students or their parents, as appropriate, notify a school that a student is transgender, the school must treat the student consistent with the student's gender identity.
 - Explains schools' obligations to allow students to participate in sex-segregated activities and access sex-segregated facilities consistent with their gender identity.
 - Reminds schools of their obligation to respect students' privacy related to their transgender status under Title IX and the Family Educational Rights and Privacy Act, and also of their responsibility to respond promptly and effectively to sex-based harassment of all students, including harassment based on a student's actual or perceived gender identity, transgender status, or gender transition.
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Pending Defensive Litigation

- The Department's interpretation of sex discrimination prohibitions to encompass discrimination based on gender identity, including transgender status, has been subject to a number of legal challenges.
 - In one of those cases, *Texas v. United States* (N.D. Tex.), the district court has entered a preliminary injunction that broadly restricts the Federal Government's ability to rely on the December 2014 Attorney General Memo, the May 2016 DOJ & ED Dear Colleague Letter, and similar documents.
 - *The Department has filed a notice of appeal regarding that injunction.*
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Fighting Housing Discrimination

The Division enforces the Fair Housing Act and the Equal Credit Opportunity Act, which prohibit discrimination—including based on sex and disability (which includes HIV/AIDS status)—in the sale or rental of housing and in other residential real-estate transactions.

To file a housing or mortgage discrimination complaint,

*visit the Department of Housing and Urban Development's website at **hud.gov** and under "Topic Areas," select "Housing Discrimination," or call **1-800-669-9777 | 1-800-927-9275 (TTY)**.*

To file a lending discrimination complaint,

*visit the Consumer Financial Protection Bureau's website at **consumerfinance.gov/fair-lending** or call **1-855-411-2372 | 1-855-729-2372 (TTY)**.*



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Recent DOJ Enforcement Actions

- ***United States v. Toone*** (E.D. Tex): On July 17, 2014, the court entered a consent order in a Federal court case brought by the Department based on an investigation by the Department of Housing and Urban Development (HUD).
 - This was the first case in which the Civil Rights Division argued that discrimination based on a person's transgender status constitutes sex discrimination under the Fair Housing Act.
 - This case alleged that the owners of a recreational vehicle (RV) park discriminated against a transgender female resident and her girlfriend by not allowing the transgender resident to dress as a woman in the common areas of the park and by ultimately evicting her and her female roommate.
 - The consent order requires defendants to modify the RV park's non-discrimination policy to include sex and familial status, to pay \$4,000 in damages, and to release a \$2,616 state judgment related to the eviction.
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Recent DOJ Enforcement Actions (cont.)

- ***United States v. Wren*** (N.D. Ill.): The Department filed a lawsuit alleging that the owner and property manager of a two-unit building in Chicago violated the Fair Housing Act on the basis of disability and/or familial status by refusing to rent to a woman because she was HIV-positive and/or because she had a minor child. Defendant also engaged in a pattern or practice of similar discrimination based on familial status.
 - This case was based on an investigation by HUD.
 - In 2015 the court found in favor of the United States, holding that the owner violated the FHA when she asked the woman the nature of her disability, voiced disapproval of her HIV-positive status, and refused to rent to her because of her HIV.
 - The court also awarded the woman \$10,000 in damages.
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Recent DOJ Court Filings

- The Department filed a Statement of Interest in ***Gomez v. Quicken Loans***, a case in the Central District of California in which a man with HIV alleged he was discriminated against because of disability.
 - The brief related to disparate treatment claims and disparate impact claims under the Fair Housing Act and Equal Credit Opportunity Act.
 - The district court granted the motion to dismiss and the plaintiff appealed to the Ninth Circuit Court of Appeals. The Department filed an amicus brief in the Ninth Circuit arguing that the district court erred in dismissing the claim of disparate treatment under the Fair Housing Act.
 - In 2015 the Ninth Circuit held that the plaintiff stated a claim for disparate treatment, because Quicken Loans required individuals who applied for a mortgage using SSDI (disability) income to provide additional evidence of income, whereas other applicants were held to a lower standard of proof.
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Protecting the Rights of Intersex Persons

- The Division enforces the **Americans with Disabilities Act (ADA)**, which guarantees equal opportunity for individuals with disabilities.
 - Under the ADA, an individual is considered to have a “disability” if the individual is **substantially limited** in a **major life activity** or **major bodily function**.
 - This covers most of the over three dozen **intersex conditions (or DSD/Differences of Sex Development)**, including, for example, substantial limitations in the major life activity of reproduction or the major bodily function of the endocrine system.
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Protecting the Civil Rights of Persons Living with HIV/AIDS

- The ADA also guarantees equal opportunity for **persons with HIV/AIDS** (either symptomatic or asymptomatic), as well as persons regarded as having HIV/AIDS and persons or entities associated with a person with HIV/AIDS, in:
 - Employment
 - State and local government services
 - Public accommodations (*i.e.* private businesses and non-profits that provide goods and services to the public)

For more information or to file a complaint, visit ada.gov/AIDS.



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National HIV/AIDS Strategy

Goals:

July 2010 | aids.gov
July 2015 Update

1. Reducing New HIV Infections
 2. Increasing Access to Care and Improving Health Outcomes for People Living with HIV
 3. Reducing HIV-Related Health Disparities
 - Reducing ***stigma and discrimination*** against people living with HIV
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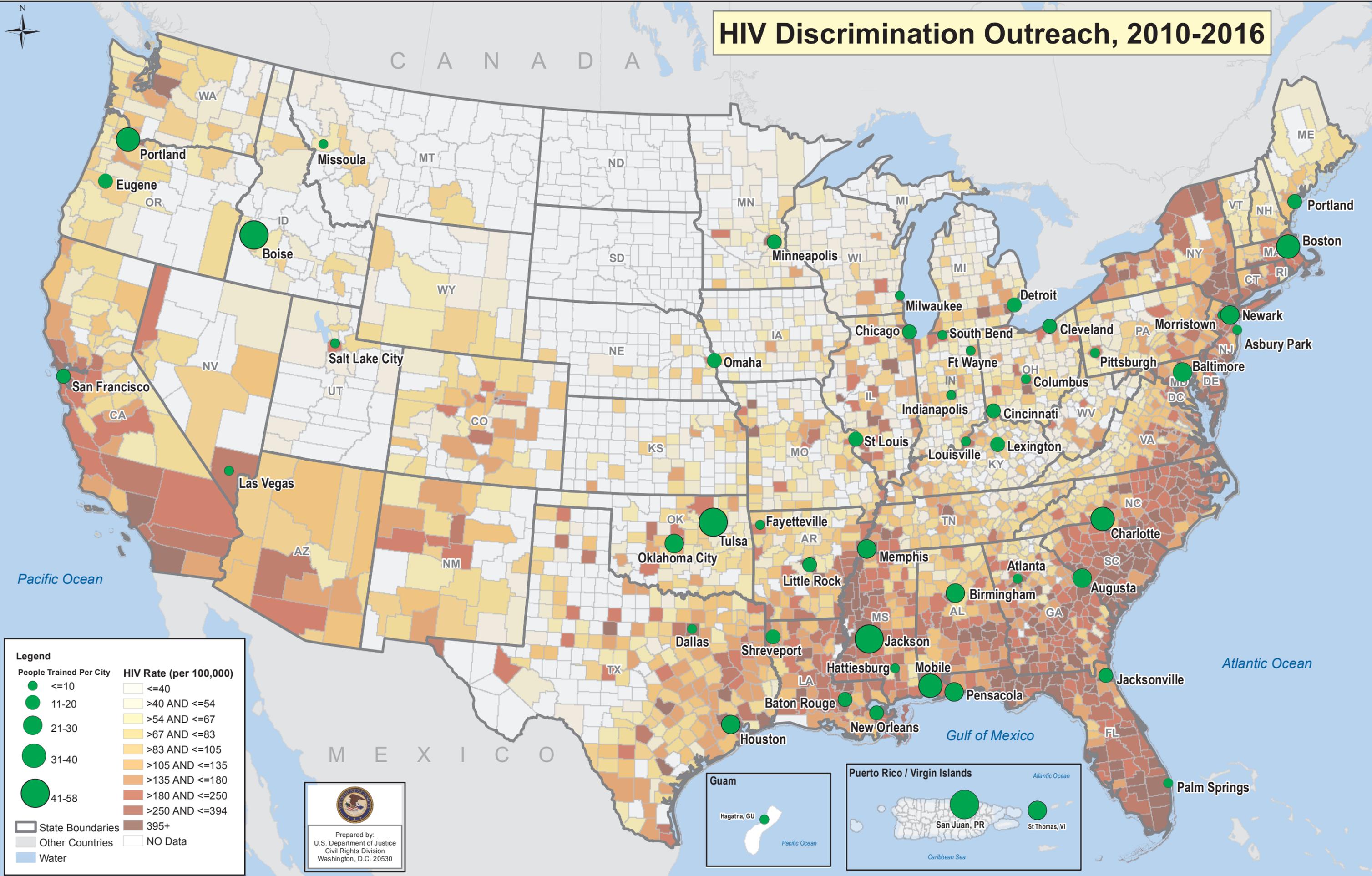


DOJ Civil Rights Division

Implementation of the Nat'l Strategy

- 1.** Educate target populations through outreach
 - 2.** Enforce existing federal civil rights laws and investigate complaints of HIV discrimination
 - 3.** Examine and report on HIV-specific sentencing laws and implications for people living with HIV
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HIV Discrimination Outreach, 2010-2016



Legend

People Trained Per City	HIV Rate (per 100,000)
● ≤10	≤40
● 11-20	>40 AND ≤54
● 21-30	>54 AND ≤67
● 31-40	>67 AND ≤83
● 41-58	>83 AND ≤105
	>105 AND ≤135
	>135 AND ≤180
	>180 AND ≤250
	>250 AND ≤394
	395+
▭ State Boundaries	▭ NO Data
▭ Other Countries	
▭ Water	


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Guam

Hagatna, GU

Puerto Rico / Virgin Islands

San Juan, PR

St Thomas, VI



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Medical Related Settings

- A healthcare provider **cannot refer a patient with HIV/AIDS** to another provider **simply because the patient has HIV/AIDS**. The referral must be because the treatment the patient is seeking is outside the expertise of the provider, not because of the patient's HIV.
 - **Genesis Healthcare System:** The Department found that Genesis discriminated on the basis of disability because one of its primary care physicians refused to accept a new patient because of her HIV and had a practice of referring patients with HIV seeking primary care to a specialist.
 - Settlement included \$25,000 in damages for the patient
 - The Department has also settled with dentists, bariatric surgery centers, a podiatrist, a pain clinic, a chiropractor, an alcohol rehab center, and a pharmacy, and sued a plastic surgeon, due to HIV discrimination.



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Recent DOJ Enforcement Actions

- **Castlewood Treatment Center:** An eating disorder clinic refused to admit a woman because of HIV, but led her to believe she would be admitted any day, while encouraging her to go elsewhere. During this delay of up to 7 months, her health declined considerably.
 - Settlement included: \$115,000 damages | \$25,000 civil penalty
 - **Milton Hershey School:** The Department reached a settlement with a school that declined to enroll a student after his mother disclosed that he has HIV. Under the agreement:
 - The school is required to adopt a policy prohibiting discrimination, provide training to staff on the ADA, report to the Department each time a student with HIV applies to the school, including the outcome of the application, and pay \$700,000 in damages and a \$15,000 civil penalty.
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Recent DOJ Enforcement Actions (cont.)

- **State of West Virginia:** In June 2015, the Department issued a findings letter to the State of West Virginia regarding its violations of the ADA. Specifically, the state's children's mental health system fails to provide integrated mental health treatment and services to children with significant mental health needs. As a result, children are unnecessarily institutionalized.
 - The Department's findings specifically found that certain subpopulations, including LGBT children and youth, are at heightened risk for unnecessary institutionalization.
 - Our findings letter included the recommendation that the state's cross system remedial plan address the heightened risk factors experienced by the LGBT population.



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Defending the Constitutional Rights of People in Institutions

Under the **Civil Rights of Institutionalized Persons Act (CRIPA)**, the Division has authority to remedy a pattern or practice that deprives people of their constitutional rights in state or local jails and prisons, juvenile detention centers, and other institutions. Examples of constitutional violations include:

- Failure of prison officials to protect LGBTI inmates from violence;
 - Denial of certain kinds of medical treatment to individuals diagnosed with gender dysphoria (formerly referred to as Gender Identity Disorder or GID); and
 - Unjustified segregation of LGBTI individuals.
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Recent DOJ Enforcement Actions

- **Pittsburgh, PA:** In 2014, the Division resolved an investigation of the State Correctional Institution at Pittsburgh after criminal prosecutions were brought against officers for assaulting and sexually abusing vulnerable prisoners.
 - After 2 years of working cooperatively with the Department, the jurisdiction had significantly improved security policies and practices, particularly aimed at protecting gay, transgender, and gender nonconforming prisoners from harm and discrimination.
 - These improvements included statewide reforms to oversight and accountability measures, abuse and misconduct investigations, prisoner screening procedures, and the grievance system.
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Recent DOJ Enforcement Actions (cont.)

- ***United States v. Alabama*** (M.D. Ala.): On June 18, 2015, the court entered a negotiated consent decree to remedy the Division's findings that the Alabama Department of Corrections (ADOC) failed to protect women prisoners at Julia Tutwiler Prison for Women from harm due to sexual abuse and sexual harassment from correctional staff.
 - Under the decree, ADOC must develop and implement policies that emphasize the rights of LGBTI, gender nonconforming, and gender dysphoric inmates to a safe, nondiscriminatory, and respectful environment.
 - ADOC must provide ADOC-issued clothing and hygiene items and facilities appropriate to the needs of transgender and gender dysphoric inmates.
 - The decree also includes provisions regarding health care and treatment for gender nonconforming and gender dysphoric inmates.
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Recent DOJ Enforcement Actions (cont.)

- **Georgia Department of Corrections:** On February 5, 2016, the Department opened a CRIPA investigation into the treatment of transgender and gay prisoners in the custody of the Georgia Department of Corrections.
 - This matter is being investigated jointly with the three U.S. Attorney's Offices in Georgia.
 - The investigation focuses on whether Georgia adequately protects transgender and gay prisoners from sexual harassment, sexual abuse, and assault by both staff and other prisoners.
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Recent DOJ Court Filings

- ***Diamond v. Owens*** (M.D. Ga.): In April 2015, the Department filed a Statement of Interest (SOI) stating that the Eighth Amendment mandates medical care and individualized assessment for prisoners diagnosed with gender dysphoria.
 - Against the advice of her treating physicians, prison officials denied Ms. Diamond the female hormones she had been receiving for 17 years.
 - The Department argued that “freeze-frame” policies that maintain the treatment protocol that a transgender inmate was receiving prior to becoming incarcerated but deny any new treatment or refuse to advance the level of care beyond that which they received in the community are unconstitutional.
 - Within days of filing the SOI, the Georgia Department of Corrections rescinded its “freeze-frame” policy and instituted a new policy providing for individualized assessment and healthcare for prisoners with gender dysphoria.

Ms. Diamond was released from prison early and her damages claims were settled in 2016.



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Prison Rape Elimination Act of 2003

- In 2012, DOJ issued a final rule to prevent, detect, and respond to sexual abuse in confinement facilities, in accordance with the **Prison Rape Elimination Act of 2003 (PREA)**.
 - This landmark rule sets national standards for four categories of facilities: adult prisons and jails, lockups, community confinement facilities, and juvenile facilities.
 - This is the first-ever federal effort to set standards aimed at protecting inmates in all such facilities at the federal, state, and local levels.
 - The Division played a key role in developing this rule, including developing provisions **to protect LGBTI prisoners from abuse and discrimination**, and continues to be heavily involved in providing interpretive guidance, training PREA auditors, and providing frequent input on implementation.
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Prison Rape Elimination Act (cont.)

- The standards require, among other things, that:
 - Facilities must screen all individuals at admission and upon transfer to assess their risk of experiencing or perpetrating abuse, including **identifying those who may be at risk because of their transgender status, gender nonconformity, sexual orientation, or intersex condition.**
 - In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, **an agency may not simply assign the inmate to a facility based on genital status or assigned gender at birth.**
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Discrimination by Law Enforcement

The **Violent Crime Control and Law Enforcement Act of 1994**, 42 U.S.C. § 14141, allows the Division to review the practices of law enforcement agencies that may be violating people's federal rights.

- The Division can also use the anti-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, and Title VI of the Civil Rights Act of 1964, which forbid discrimination on the basis of race, color, sex, or national origin by agencies receiving federal funds.
 - The Division may act if we find a pattern or practice by a law enforcement agency that systemically violates people's rights.
 - The problems addressed in our cases have included use of excessive force; unlawful stops, searches, or arrests; and discriminatory policing.
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Recent DOJ Enforcement Actions

- **New Orleans, LA:** In 2012, the Department entered into a consent decree with the City of New Orleans to resolve findings of a pattern or practice of constitutional violations by the New Orleans Police Department.
 - **Puerto Rico:** In 2013, the Department entered into a consent decree with the Commonwealth of Puerto Rico to resolve findings of a pattern or practice of constitutional violations by the Puerto Rico Police Department.
 - These agreements include provisions specifically aimed at eliminating policing practices that discriminate on the basis of sexual orientation, gender identity, or gender expression.
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Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009

- Criminalizes acts of violence that cause bodily injury (and attempts to do so with a dangerous weapon) when motivated by a person's actual or perceived:
 - Race, Color, Religion, National Origin; or
 - Gender, Sexual Orientation, Gender Identity, or Disability (IF the offense is in or affecting interstate/foreign commerce).

To report a hate crime, contact your local FBI field office, which can be found at: www.fbi.gov/contact-us/field.



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Recent DOJ Prosecutions

- **Corpus Christi, TX:** In September 2015, two Texas men pleaded guilty to hate crime offenses for assaulting a gay, African-American man because of his race and sexual orientation.
 - According to the indictment and pleas, the defendants invited the man into an apartment then assaulted him while calling him racial and homophobic slurs.
 - Over the course of approximately three hours, the conspirators allegedly punched and kicked the man and assaulted him with various dangerous weapons.
 - The conspirators poured bleach on the man's face, made him strip, and sodomized him with a broom.
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Recent DOJ Prosecutions (cont.)

- **Bremerton, WA:** Troy Deacon Burns, 38, was charged with violating the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. Burns pleaded guilty on August 5, 2015.
 - Burns admitted that just after midnight on January 25, 2015, he attacked three gay men who were walking in Seattle's Capitol Hill neighborhood.
 - Burns admitted in his plea agreement that he came up behind the three men and shouted homophobic slurs. Burns then raised a knife over his head in a stabbing position. Burns chased the men, again used a slur, and attempted to stab one of the men.
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Recent DOJ Prosecutions (cont.)

- **Atlanta, GA:** In 2013, a federal prosecution stemming from the beating of an Atlanta man resulted in the first conviction under the sexual orientation provision of the Shepard-Byrd Act.
 - In this case, two men pleaded guilty to assaulting a 20-year-old gay man as he left a grocery store in Atlanta's Pittsburgh neighborhood.
 - A video taken by the perpetrators and their friends caught both the physical violence and the use of anti-gay slurs.
 - The two men were sentenced to serve 10 months in prison on federal hate crimes charges and were sentenced to additional time on state charges.
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Protecting the Rights of LGBTI Individuals

DOJ Trainings for Law Enforcement

- The Civil Rights Division has held trainings for thousands of law enforcement officials – federal, state, and local – to ensure that first responders to an assault or other act of violence know what questions to ask and what evidence to gather at the scene to allow prosecutors to make an informed assessment of whether a case should be prosecuted as a hate crime.
 - In 2016, the Division co-hosted five regional trainings and community events around the country to mark the fifth anniversary of the Shepard-Byrd Hate Crime Prevention Act's passage. Our hope is that these events will lead to greater collaboration between the community and law enforcement, more effective strategies to combat hate crimes, and enhanced public safety.
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DOJ Gender-Biased Policing Guidance

- Sexual assault and domestic violence are crimes that disproportionately impact women, girls, and LGBT individuals in the United States.
 - Gender bias in police responses to these crimes also disproportionately impacts women, girls, and LGBT individuals.
 - Explicit and implicit bias, including stereotypes about gender roles, sexual assault, and domestic violence can affect law enforcement responses.
 - The DOJ guidance provides a set of basic principles that, if integrated into policy, training, and practice, will help ensure that victims are safe and that offenders are held accountable.
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DOJ Gender-Biased Policing Guidance

- Key principles in the guidance:
 - Recognize and address biases, assumptions, and stereotypes about victims.
 - Treat all victims with respect, and employ interviewing tactics that encourage a victim to participate and provide facts about the incident.
 - Investigate sexual assault or domestic violence complaints thoroughly and effectively.
 - Appropriately classify reports of sexual assault or domestic violence.
 - Refer victims to appropriate services.
 - Properly identify the assailant in domestic violence incidents.
 - Hold officers who commit sexual assault or domestic violence accountable.
 - Maintain, review and act upon data regarding sexual assault and domestic violence.
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Shaping Federal Civil Rights Laws

- The Civil Rights Division also files *amicus curiae*, or “friend of the court,” briefs in cases in the federal courts of appeals to advise on issues involving the interpretation or application of the federal civil rights laws mentioned in this presentation, including in cases involving the rights of LGBTI individuals.
 - For more information, including how to suggest a federal appellate case as a candidate for *amicus curiae* participation by the Division, visit the Appellate Section’s website at www.justice.gov/crt/about/app/.
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Recent DOJ Court Filings

- **Marriage equality:** On June 26, 2015, the Supreme Court struck down state bans on marriage equality in *Obergefell v. Hodges*.
 - The Department filed an *amicus* brief in the case urging the Supreme Court to strike down the bans.
 - The Department argued, and the Supreme Court agreed, that the bans violated the protected dignity of same-sex couples.
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Contact Information and Additional Resources

To contact the Division's LGBTI Working Group, or to report discrimination or acts of violence discussed in this presentation:

- Send an email to the Division at CRT-LGBTI@usdoj.gov; or
- Visit www.justice.gov/crt/complaint.
- You also may file complaints with the other agencies mentioned in this presentation that have responsibility for investigating particular claims.

For more information, case documents, news, and other resources, including a copy of this presentation and the LGBTI Working Group's brochure, please visit www.justice.gov/crt/lgbti/.
