

**Testimony of the Gender Violence Clinic University of Maryland Carey School of Law
In SUPPORT of House Bill 764**

TITLE: Criminal Law—Law Enforcement Officers—Prohibition on Sexual Activity

COMMITTEE: Judiciary

HEARING DATE: Tuesday, February 25, 2020

The University of Maryland Carey School of Law Gender Violence Clinic unequivocally supports House Bill 764.

The Gender Violence Clinic represents clients with histories of and/or in matters involving intimate partner violence, rape, sexual assault, and trafficking. Many of our clients have sought assistance from law enforcement; in addition, many of our clients have been in the custody of law enforcement. Regardless of the context in which our clients come into contact with law enforcement officers, they face the risk of unwanted sexual advances, sexual assault, and rape at the hands of law enforcement officers. House Bill 764 could help to allay those concerns by creating clear prohibitions against sexual contact between victims/witnesses and law enforcement.

Rape and intimate partner violence are among the crimes least often reported to law enforcement, in part because of concerns about how victims will be treated by law enforcement. The history of police brutality towards women, particularly women of color, lesbians, and transwomen, is well documented in the social science literature.¹ Media accounts of stories like that of Daniel Holtzclaw, a police officer convicted on eighteen counts of rape, sexual assault, and other offenses involving eight different women, and Florida police officer Leonel Marines, who used his access to sensitive police information to target as many as 150 women, make it clear how easy it is for police to misuse their power to coerce unwanted sexual contact. Moreover, the power dynamics between police and those seeking their assistance or in their custody, and the authority with which police are invested, make it difficult for victims of such unwanted contact to come forward or to prove claims of abuse. Reasonable restrictions on the ability of law enforcement to engage in sexual relationships with those they are assisting or investigating foreclose opportunities for argument about whether such contact is consensual. House Bill 764 reflects the wider societal consensus that such sexual contact is inappropriate and is consistent with the Prison Rape Elimination's Act prohibitions on sexual contact between correctional staff and incarcerated people, prohibitions enacted in part because of the disproportionate rates of sexual abuse of incarcerated people by staff.

The potential for abuse when police engage in sexual relationships with victims, witnesses, or those suspected of crimes is significant; the burden placed on them by asking them to wait to have those relationships until such time as they no longer have professional interest in those people is minimal. House Bill 764 asks very little of police but gives the public a substantial amount of protection in return. For all of these reasons, the Gender Violence Clinic of the University of Maryland Carey School of Law supports House Bill 764.

¹ Andrea Ritchie, *Invisible No More: Police Violence Against Black Women and Women of Color* (Boston: Beacon Press, 2017).