Law Enforcement Management Institute

Sexual Harassment: Understanding the Issues

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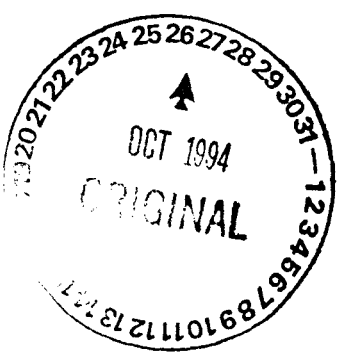

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Preface

The purpose of this research is to obtain enough information to demonstrate to law enforcement agencies and organizations the need for a sexual harassment policy.

Sexual harassment does not pertain only to women. Men can be victims too. However, women are normally the complainants of sexual harassment and abuse. The reason could be that women and men are approaching a 50/50 ratio in the workplace.

Sexual harassment can be a costly abuse within any organization. What once was a feminist issue is now a financial one also. This research is intended to show the impact of litigation involving sexual harassment. It is not uncommon for managers and supervisors to be unaware that their conduct is considered sexual harassment and is the reason a written policy and training is so important.

Understanding what behaviors constitute sexual harassment and knowing how to protect employees is the basic knowledge needed to promote equal and fair treatment in the workplace.

Employers must recognize sexual harassment as a violation to the employee and develop comprehensive policies against it. A policy is the start of educating the employees and supervisors within an organization and may be the start to the prevention of sexual harassment.

Introduction

Sexual harassment has become a controversial issue. Public visibility of the recent incident and accusations of the Thomas-Hill case at the Capitol would lead some people to believe it may be a disease with no cure.

It is not an issue that suddenly appeared without warning signs. Sexual harassment is prevalent across the country. It could be considered a moral issue. What once was accepted as a 'price for a job or promotion' is no longer acceptable in today's society.

In the last year, America watched television, motionless and dismayed as the Senate Judiciary Committee investigated Anita Hill's accusation that Clarence Thomas had sexually harassed her while he was her boss at the Department of Education and the Equal Employment Opportunity Commission. Viewers were asking one another, "Do you think he is guilty?" or "Do you think she is lying?". It has been one of the choice topics of the year. (Thomas 1991)

This publicity has prompted some businesses in setting guidelines and policies banning any form of sexual harassment in the workplace. **Why?** Because they can not afford the costs involved. Some employers have seen when other businesses tolerate sexual harassment in the workplace, a price is paid in low productivity, the loss of valuable employees, and expensive and damaging lawsuits.

Yet is surprising the many businesses, agencies, and organizations that have no guidelines or policies regarding sexual harassment. These owners or manager either underestimate a

sexual harassment Civil Rights suit, or they really don't understand the issues involved.

The History of Sexual Harassment Complaints

On April 12, 1980, the front page headlines of the New York Times read, "Sexual Harassment at Work Outlawed". This article was published the day after the EEOC (Equal Employment Opportunity Commission) released regulations explicitly forbidding sexual harassment of employees by their supervisors, a violation of Section 7.03 of Title VII of the Civil Rights Act Of 1964.

This was not behavior unheard of at the time. Sexual harassment has been a complaint of employees, mostly women, for many years; probably as long as both men and women have shared the same workplace.

Over thirty years prior to the forbidding of sexual harassment of employees, on May 1, 1947, a union strike of the R. J. Reynolds Tobacco Company in Winston-Salem, North Carolina, was partially based on complaints from female employees claiming they were being sexually harassed by their male supervisors. Local 22 (The Food, Tobacco, Agriculture, & Allied Workers Union of America) suffered great persecution during the strike, but in the end, it was regarded as a victory. The women of the Reynolds plant could now

resist the humiliation of sexual advances by male supervisors without the fear of losing their jobs. (Foner 1980)

In 1947, the women of the Reynolds Company were told they could resist sexual advances by their male supervisors without fear of losing their jobs. Thirty years later, women were still complaining of sexual harassment. In 1976 WOW (Women Office Workers) conducted a survey of fifteen thousand office workers. Results of the survey revealed 57 percent of women reported they were not treated as equal or with respect, and 33 percent reported sexual abuse, including threats of dismissal if they failed to comply. (Foner 1980)

This survey was performed following the first litigation of sexual harassment in 1974. In that and subsequent cases, courts decided that the type of behavior addressed was not included in the Civil Rights Act of 1964.

Prior to 1976, courts maintained that harmless flirtation and sexual advances did not constitute sexual harassment and sex discrimination. However, in 1976, judicial attitudes began to change. For the first time, courts held the employer responsible for the acts of its supervisors. The case of Williams v. Saxbe (413 FSupp 654,DC 1976) was the first time a district court recognized sexual harassment as a Title VII violation. (Vhay 1988)

On April 21, 1976, WOW hosted a lunch time rally featuring the reading of WOW's Bill of Rights. It was not long before more than a dozen organizations had formed in cities across the country. Among the numerous contributions was the encouragement of working women to speak out and seek protection against sexual harassment by male supervisors.

> WOW had worked closely with the Working Women United Institute (WWUI) in revealing the extent of unwanted sexual advances in various occupations,...and to the degree to which job security is dependent on how well the female employee satisfies the boss as a sex object rather than a worker. (Foner 1980)

Women began to speak out about sexual harassment in their jobs. In 1977 the Court of Appeals for the District of Columbia decided that Paulette Barnes was discriminated against as well as sexually harassed. Her government job was abolished in retaliation for her refusal to grant sexual favors to her boss. The Barnes case established that sexual harassment is a form of sexual discrimination under the Civil Rights Act. (MacKinnon 1991)

This decision was repeated in April 1978, a Denver woman was reinstated in her job and awarded back pay by a federal judge following grounds of a violation of the Civil Rights Act. The woman had been fired for refusing to have sex with her boss.

Women continued to fight for working environments free of sexual harassment. Some male co-workers began to share their battle. On October 8, 1979, fourteen hundred members of Local 3-38 International Woodworkers of America (IWA), which was all but fifty male workers, shut down three logging camps and five mills in Shelton, Washington, in support of a female member who was fired for refusing to drop charges for sexual harassment against the Simpson Lumber Company.

Seven women employed by Simpson Lumber came forward and signed affidavits stating they too had been sexually harassed during their initial hiring interviews. They reported being asked to take

off their blouses during the interviews, asked if they would have sex with their supervisor, and even inquired as to whether they wore a bra or not. (Foner 1980)

In 1980 the EEOC (Equal Employment Opportunity Commission) issued guidelines defining sexual harassment. In 1981, the case of Bundy v. Jackson (641 F2d 934) marked the first time that a court recognized that sexual harassment was actionable. Prior to this case, an allegation had to be one of 'job harm'. (Woerner 1990)

Ten years later, the Merit Systems Protection Board conducted a survey in 1989. Forty-two percent of the women responding to the survey, and 15 percent of the men responding, reported they had been sexually harassed on the job. (Flynn 1991)

In 1991, the Pentagon released the first major study of sexual harassment in the military. Twenty thousand military personnel were surveyed. The survey took two years to complete. The study showed one third of the women surveyed had experienced some form of sexual harassment, including touching, pressure for sexual favors, and rape. Sixty-four percent of the women, or two-thirds, said they had been sexually harassed in some form. Of the men surveyed, 17 percent said they had been harassed by a male or female personnel.

Seventy-one percent of the women surveyed said they had suffered three or more forms of sexual harassment, and 75 percent said these incidents involved a man acting alone as the harasser.

In private sectors studies, surveys have found that 30 to 40 percent of women and 14 to 15 percent of men who were surveyed said they had experienced sexual harassment at work. (Webb 1991)

1980. They defined sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature that takes place under any of the following circumstances:

*when submission to the sexual advance is a condition to keeping or getting a job, whether expressed in explicit or implicit terms.

*when a supervisor or boss makes a personnel decision based on an employees submission to or rejection of a sexual advance.

*when sexual conduct unreasonably interferes with a persons work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur between any two or more people. It can be an explicit proposition or can be a harmless comment made about appearance or clothing. It is unwanted behavior exhibited to another person who finds it offensive.

Actual sexual harassment is entirely different of just unwanted or unwelcomed sexual advances. Unwanted sexual advances must be repeated and/or offensive to constitute sexual harassment. However, sexual advances that are accompanied by threats and bribes need occur only once to be termed sexual harassment. This type of behavior must be dealt with in all firmness, without regard to diplomacy and tact. (Baldridge 1985)

With the ratio of men and women in the workplace approaching 50/50, there is an increased opportunity for the sexes to harass each other. (Flynn 1991)

Sexual harassment is not an issue that just crept out of the closet. It has been around for many decades. EEOC has set regulations forbidding sexual harassment, companies have set policies, courts have found employers liable in lawsuits, yet sexual harassment is still prevalent. As the history of Title VII demonstrates, it will take more than regulations to outlaw harassment and sexual abuse in the workplace.

What is Sexual Harassment?

So what is sexual harassment? Catherine A. MacKinnon had the following to say in People Weekly, October 28, 1991:

> In its broadest definition, it is sexual pressure that you are not in a position to refuse. In its verbal form, it includes a working environment that is saturated with sexual innuendoes, propositions, and advances. Other forms include leering, for example, at a womans' breast while she talks, or staring up her skirt while she is bending over to get files. In its physical form, it includes unwanted sexual touching and rape.

Sexual harassment may be inflicted on a male by a female, or on a female by a male, but in most cases involve a female being harassed by a male. EEOC guidelines were adopted in November

What one person considers sexual harassment may only be an annoyance to another. The desire to be one of the 'guys' makes some females accept the 'jokes' and other harassing behavior even though they do not like it. (Layne 1991)

Some men and women do not quite understand that sexual harassment may start as a joke. Everyone laughs at jokes, and in stressful jobs and situations, they can play an important role in easing tension. However, the fact is that even in jest, there is a point when it becomes harassment.

The difference between friendliness and harassment is often a matter of perception. Depending on backgrounds, and present lifestyles, what may be said at one office may be considered sexual harassment at another.

In Against Our Will: Men, Women, and Rape, by Susan Brownmiller, a whistle sets one woman in a rage. The whistle of Emmett Till directed towards Carolyn Brant is said to be "no small tweet of hubba-hubba or melodious approval of a well turned ankle . . . but a deliberate insult just short of physical assault" , a last reminder to Carolyn Bryant that this boy had in mind to possess her.

> A murder for a wolf whistle and a jury that refused to convict. The Till case became a lesson of instruction to an entire generation of appalled Americans. I know how I reacted. At age twenty and for a period of fifteen years after the murder of Emmett Till whenever a black teenager whistled at me on a New York City street or uttered in passing one of several variations of an invitation to congress, I smiled my nicest smile of comradely equality- no supersensitive flower of white womanhood, I- a largess I extended with equal sincerity to

> white construction workers, truck drivers, street corner cowboys, indeed to any and all who let me know from a safe distance their theoretical intent. After all, were not women for flirting? Wasn't a whistle or a murmured "May I fuck you?" an innocent compliment? And did not white women in particular have to bear the white man's burden of making amends for Southern racism? It took fifteen years for me to resolve these questions in my own mind, and to understand the insult implicit in Emmett Till's whistle, the depersonalized challenge of "I can have you" with or without the racial aspect. Today a sexual remark on the street causes within me a fleeting but murderous rage.

Different people have different tastes and different social settings have different standards of acceptable behavior. Crude conversation is common to some men and not all women are put off by it. (Cohen 1991)

Sexual harassment is best described as unsolicited non-reciprocal behavior that asserts a persons' sex role over their function as a worker. (Farley 1978). This behavior is said to be an illegal employment practice that has to do with the technique of putting women down and making them feel uncomfortable. This allows the harasser to maintain his control. It is a power trick. The harassment has nothing to do with mutual attraction and everything to do with power. (Butler 1984)

Susan Webb is a consultant and trainer specializing in the area of human relations. She has researched, designed and presented workshops and seminars on sexual harassment. Ms. Webb says that sexual harassment is a form of employee misconduct which undermines the integrity of working relationships. Sexual harassment

does not refer to the occasional compliment but to the behavior which is unwelcome and is found to be personally offensive. This type of behavior destroys morale and interferes with employees' work effectiveness. Behavior that is deliberate or repeated can be a form of sexual harassment. This is behavior that is not welcomed, asked for, not returned by the victim.

Sexual harassment is a societal problem. The type of harasser who says and does things that constitute sexual harassment without actually meaning to is usually unaware that others find his behavior offensive. This is when the victim has the responsibility to speak out and object to the behavior. Most of the time, the behavior improves at this point. (LETN 1992)

The type of harasser who simply does not care if his behavior is offensive is called an insensitive person. The employer must take actions for this type of behavior and harassment. A manager can no longer sit back and ignore the situation. He now has an affirmative duty to take action to prevent and eliminate sexual abuse and harassment from the workplace. (Butler 1984)

The EEOC prohibits the type of sexual harassment described in legal terms as '*quid pro quo*'. This means 'this for that'. The boss who offers a promotion to his secretary if she sleeps with him is in violation of this type of harassment. This may be in explicit or implicit terms.

The EEOC has recognized a second form of sexual harassment called a 'hostile environment'. This type of harassment would be where sexual innuendoes, propositions, and pin-up posters are exposed, and all else that would deter a worker from doing their best job due to the environment. In a 'hostile environment' allegation, the

plaintiff must prove that higher management knew, or should have known of the sexual harassment before the employer may be held liable.

Sexual harassment can be verbal or physical. The most frequent forms of sexual harassment are comments about a woman's body, jokes about her sexual behavior, direct propositions, and job related threats for refusing sexual activity. The physical forms of harassing behavior include patting or pinching, touching anothers body, and rape.

In simple language, sexual harassment is any behavior that is intentional and offensive. Some types of behavior do not have to be repeated, such as those involving *quid pro quo*., whereby the employer is strictly liable for the conduct of its supervisors.

Sexual harassment is actually a denial of human dignity above and beyond any other definition that is available or could be offered. (Meyer 1981)

The Negative Effects

A 1981 survey by Harvard Business Review revealed that their subscribers said the biggest issue is not in defining sexual harassment, but recognizing it when it occurs. (Butler 1984)

Once a person is informed that their behavior is offensive, it is the responsibility of the offender to correct the behavior and cease any further violations. If the behavior continues, then management must step in and take corrective actions. Current law places principal

liability on the company, not the harassing supervisor, for such behavior. Sometimes management is unaware of the harassment and therefore can not take any steps to prevent or cease it. However, liability continues to be management's burden. (Paul 1991)

A sex discrimination suit can cost more than attorney fees, which are considerable in themselves. As in all Civil Rights cases, if the plaintiff wins, the defendant must pay all attorney and court costs.

Most companies prefer to handle allegations of sexual harassment within the company and prior to going to court because a sexual harassment litigation is a negative issue for the company. However, litigation can be brought forward even if the employee does not inform management of the harassment. If the employer is called into court on a legal action and is found to be without a sexual harassment policy and procedure, its defense is weakened. (Dauer 1991)

A sexual harassment suit has a negative effect on the productivity, morale, job turnover, promotion of women in the workplace, legal costs, loss of government contracts, and bad public relations through newspaper and magazine headlines, not to mention, if aired across national television.

The key point is the employer is responsible for acts of harassment. Sexual harassment has been recognized as a societal problem and had been accepted in cultures where many men considered themselves superior to women. (Gordon 1991)

Permitting male employees to use the workplace as a site to torment and harass female employees with unwelcome sexual communication will always be a net cost to employers. (Cohen 1991)

A manager can no longer sit back behind closed doors and ignore the situation, hoping it will go away and no one will complain. When management waits until an employee complains about harassment, it is sometimes too late. A criminal proceeding or litigation may very well be in progress.

Management may think that if no one is complaining then no one objects. **WRONG!** Employees do not always report they are being abused for many reasons.

Sexual harassment has a variety of effects and, like rape victims, women feel angry, humiliated, ashamed and scared. Sometimes the woman may feel she is to blame for the harassment and she may feel responsible for the behavior of another. (Coles 1985)

The claim that women are responsible for the existence of sexual harassment in the workplace is untrue. Rather than passing responsibility in the individual, companies should be proactive in preventing sexual harassment because hidden harassment can lead to costly and disruptive turnover, lack of team interaction, and a disgruntled staff. (Nasser, 1991)

Females in a non-traditional role have given to the male dominated culture an attitude that she has to take the harassment and listen to what men call 'joking around'. Many women, especially in the field of law enforcement have adapted and learned to live with the abuse by going along with the harassment as a survival and/or coping technique. (Leonard 1991)

Women really just want to do their work and keep their jobs. Single mothers have families to feed and bills to pay. These women

understand that keeping their jobs, sometimes at all costs, is important. In some jobs, women are not considered as valued colleagues. They feel mere objects of unwanted sexual attention. (Hornig 1984)

These women are not wanting reverential treatment, but feel they should not have to tolerate offensive and outrageous sexual abuse and threats as they go about their jobs and work to support their families.

Women are not the only ones that suffer when sexual harassment is present in the workplace. It affects the morale of the victims, the witnesses and the harasser. The physical and emotional trauma they undergo decreases productivity and increases absenteeism, and in many cases, cause a substantial turnover. (Flynn 1991)

Most victims who are employees in the job market are totally afraid of losing their jobs. So they sit back and never have the courage to speak up and complain about the sexual abuse and harassment, and sometimes out and out discrimination. Sexual harassment is as discriminating as paying a female less money for the same position and duties of a male co-worker.

Sexual harassment could be compared to rape because it is suspected that a large percentage of cases may go unreported. There is a great deal of trauma and frustration involved, but the employee who is the victim has to step forward and object to the mistreatment. It is a heavy responsibility. These victims do not speak out about the harassment for fear of losing their job, retaliation, and

due to notions that the harasser would go unpunished and things would be worse.

The lack of knowledge about cases of sexual harassment is not surprising, since female victims are closemouthed about their experiences. Carol Ukens, author of, Sexual Harassment A Fact of Pharmacy Life, Some Find, reported a research study indicating ' a study of 832 working women found that although nearly one half of them had been sexually harassed, none has sought legal remedies.' (Ukens 1991)

Most of the cases that are reported are done so by people who merely want to do their jobs and to be left alone. (McDonald 1991)

In the end, its what the entire issue of men and women in the workplace all comes down to - **equal treatment, equal pay, equal access and ultimately, the recognition of equal worth.** (Butler 1984)

The Law Enforcement Tightrope

Sexual harassment can be a problem in the law enforcement agency. The law enforcement field has been historically a male dominated work force. In recent years the female has broken this barrier and demanded equal opportunities. These demands have been for equal pay and to be allowed to participate in all facets of law enforcement.

The harassment found in these agencies is not much different from the harassment in other work fields. Supervisors demand special favors for benefits and promotions. Sometimes evaluations are based on the compliance by the subordinate.

The offending behavior is not always a *quid pro quo* (this for that) type of behavior within the law enforcement agency. The harassment can be in the form of small jobs and minute assignments because of a male supervisors belief that a female can not handle the job. This behavior could be based on an overprotection for fear the female may get hurt in this risky occupation. The old excuse that women are too weak or emotionally unstable have been statistically proven to be untrue.

The major problem area in law enforcement is that women who are being harassed find difficulty in getting relief. If the behavior is reported, it is likely they are told 'its a man's world and you have to learn to take it like a man'. If they file a lawsuit they may be blackballed from other agencies for fear of a liability to the new department.

Those entering the law enforcement field should research each department prior to application to determine the attitudes of the administrators and its supervisors. Generally, these attitudes are passed down through the ranks. It is rare that a modern administrator, believing in equal rights and fairness, will tolerate sexual harassment among the workers.

Agencies who are concerned about sexual harassment behavior will have a policy detailing the definitions of harassing behavior, what can be done about it, what to do and whom to report if it does occur, and what measures are taken in the event the behavior

is not corrected, to include dismissal. A model policy can be found in the Glossary. It is strongly recommended that every law enforcement agency have such a policy within their agency.

Employees should be taught what behavior is acceptable and what behavior will not be tolerated. Every employee has the right to work in an environment free of offensive and abusive behavior.

A Proactive Approach

Due to the liability of a lawsuit involving a civil rights violation, it would be advantageous for management to implement training programs within their companies. These training programs would bear little expense compared to the cost of litigation.

Every business, company and organization should have a policy for sexual harassment within their organization and all employees, including all of management, should be well trained and have a good working knowledge of what constitutes sexual harassment. Employees should be trained upon initial employment, trained periodically, and further training presented when the need arises.

The training programs should inform everyone the following:

*What is sexual harassment?

*What behavior constitutes sexual harassment?

* How to report sexual harassment.

*Disciplinary actions for sexual harassment can include termination of the job.

*Management will not tolerate any form of sexual harassment.

*All employees will be required to participate in training segments for the prevention of sexual harassment.

All companies should have a sexual harassment policy that is available to all employees. This policy should be clear and precise, and written in terms that all can understand. It should be backed by a training program that deals with the policy, and definitions not understood by the employees.

All employees should have a clear understanding that sexual harassment will not be tolerated and that all reports of the abuse will be investigated and disciplinary actions will be dispensed to the violator. This disciplinary action may be a reprimand, time off without pay, a possible demotion, up to and including termination. It is important that all employees understand the seriousness of sexual harassment allegations.

Supervisors should be told in plain terms that they are not exempt, and in most cases, it is the supervisor who is the violator. Supervisors must be informed that they will be responsible for the working environment within their area and they must do whatever it takes to prevent any form of sexual abuse or harassment.

Management should also implement a survey for exiting employees that would include an inquiry if the employee had experienced sexual harassment on the job or during their

employment. This process could prove to be useful. The exiting employee is usually willing to talk about any sexual harassment, whereas before resigning, would not even mention the abuse.

As mentioned earlier, employees should be trained regarding the policy and the Civil Rights Act. During this research, a comprehensive list of sexual harassment behaviors and definitions of each were compiled by the author. This author has found no other list of definitions comparable. It is the opinion of this author that this definition list may prove to be beneficial in training programs for the prevention of sexual harassment. After all, most will say they really don't know just what is sexual harassment. This list, "Definitions of Sexual Harassment Behavior", can be found in the glossary of this research paper.

Cases of Interest

Sexual harassment litigation has been making its way into the courts of this country for many years. If every company, agency, and organization had the knowledge of just a few of the sexual harassment/discrimination suits that have been heard in our courts, it would possibly have such an effect on the policies and training procedures, that sexual abuse in the workplace could be decreased as much as fifty percent or better.

The following cases are selected samples of decisions made over the past fifteen years. Other cases of interest are listed in the glossary.

Tompkins v. Public Service (1977) 422 FSupp 553

The plaintiff alleged that her job was conditioned upon her submitting to the sexual advances of a male supervisor and the corporate employer knew or should have known that such incidents would occur. The employer maintained that the supervisor's actions should not give rise to corporate liability because he was not acting pursuant to company policy.

The court decided in favor of the employee. The court said that a violation of Title VII did exist "when a supervisor, with the actual or constructive knowledge of a employer, makes sexual advances or demands towards a subordinate employee and conditions of that

employees job status on a favorable response to those advances or demands and the employer does not take prompt and appropriate remedial action after acquiring such knowledge." (Sullivan 1986)

Miller v. Bank of America (1979) 20 EPD 600 f2d 211

A female employee who had a superior job performance evaluation was fired because she refused her supervisor's demands for sexual favors.

The corporate employer argued that the corporation should be free of liability because it had an established policy against sexual harassment, and further had provided a complaint process through its internal personnel procedures and the female employee did not use the grievance process.

The court ruled in favor of the employee stating, "We decline to read an exhaustion of company remedies into Title VII." (Sullivan 1986)

Kyriazi v. Western Electric Company (1979) 461 FSupp 894

Cleo Kyriazi, the woman who complained that three male workers in her department had teased, tormented, and criticized her in an unkind manner. After reporting the harassment to the company, and nothing was done, she filed suit alleging the company's actions adversely affected her employment situation.

The court held that the co-workers and supervisors were guilty of having seriously interfered with Kyriazi's employment contract. (Berger 1986)

Alexander v. Yale (1980) 631 F2d 178

This case involved a Yale University student who claimed a professor had offered her an A in her political science class in exchange for sexual favors.

Title IX of the Educational Amendments of 1972 state "Academic advancement conditioned upon submission to sexual demands constitutes sex discrimination in education."

The Alexander case went to trial and became an important ruling because it set a precedent for considering sexual harassment a violation of Title IX. (Berger 1986)

Rogers v. L'Enfant Plaza Hotel (1981) 526 FSupp 523

Ms. Rogers was a restaurant manager for the L'Enfant Plaza Hotel. She had complained to higher management about long and frequent harassment by her supervisor. Ms. Rogers said the harassment included phone calls to her home. Higher management took no action regarding her complaint.

The court ruled in her favor finding the phone calls to her home were an invasion of her privacy. (Berger 1986)

Continental Can Company v. Minnesota (1981)
297 NW2d 241

This was a landmark case involving an employer's responsibility for harassment by co-workers.

Willie Ruth Hawkins was one of only two women working in one of the Continental Can Company plants. She complained to her supervisor of offensive propositions, derogatory sexual remarks, and unwanted physical contacts from the male workers. When the supervisor took no action, she complained again when the sexual abuse involved her being grabbed from behind by a male worker.

Officials acting on behalf of the Continental Can Company told Ms. Hawkins that she had 'to expect that kind of behavior when working with men'. She was also told that the company could not guarantee her safety on the job.

Hawkins refused to return to her job and sued the company.

The court held the company liable and stated the employer had a duty to act when informed of sexual harassment allegations. (Berger 1986)

Bellissimo v. **Westinghouse** (1984) 764 F2d 175

Bellissimo filed a sex discrimination suit against the Westinghouse Company for the behavior of a supervisor.

Bellissimo, a female attorney, reported that her supervisor had observed her dancing with a co-worker during a business trip and told her not to be socializing with other members of the staff. The supervisor complained of Bellissimo's clothes as being too tight and too brightly colored. During several months of this harassing behavior, the supervisor continued to criticize Bellissimo and finally had her fired.

The court found that the supervisors' "sex-based" dislike of the female attorney was so strong that it "altered the conditions of employment and created an abusive situation."

Bellissimo was awarded $ 28,000 in current salary and $ 94,000 in back wages. The court recognized sexual harassment as an unlawful employment practice because it causes different treatment of workers based on their sex. (Berger 1986)

Vinson v. Taylor (1985) 37 EPD 753 F2d 141

This was the first sexual harassment litigation to reach the Supreme Court. The principle question was whether an employer was accountable for its supervisor's sexual harassment of a female employee, without the employer's knowledge concerning the harassment.

Over the past few years, eight of the federal circuit courts of appeal have heard and made decisions on a variety of cases involving sexual harassment. These lower courts had defined two specific kinds of sexual harassment.

One type of harassment was referred to as "tangible job benefit', based upon the imposition of sex-oriented conditions on employment status. The second type of sexual harassment was referred to as "environmental", which is based upon the existence of an intimidating, hostile, or offensive work environment.

This particular case was on appeal from the District of Columbia Circuit Court of Appeals. This had been the most active court in the "particularization of sex harassment as a Title VII offense." The distinction of the "tangible job benefit" v. "environmental" type of harassment became a crucial question argued before the Supreme Court.

Vinson testified that she was forced to submit to sexual advances by her supervisor at her place of employment, both during and after hours, and that she was also assaulted and raped by her supervisor.

The District of Columbia Circuit Court of Appeals stated, "we think employers must answer for sexual harassment of any subordinate by any supervising superior," and further stated "To hold that an employer cannot be reached for Title VII violations unknown to him is to open the door . . . by the simplest expedient of looking the other way."

The Supreme Court remarked on the conclusion of the Court of Appeals, "that employers are always liable for sexual harassment by their supervisors", but did maintain the "absence of notice to an employer does not necessarily insulate that employer from liability".

The Vinson case was remanded to the trial court for additional evidence. (Sullivan 1986)

Conclusion

It has been found that sexual harassment is sometimes a matter of perception. People will react differently to others' behavior depending on their current social life, their background, and their environment.

Sexual harassment knows not a color of skin, not a particular religion, nor does it attack one particular sex. It is a cruel power that some people hold over others in attempt to get what they want or to belittle another human being. The perpetrators are most likely to be supervisors, higher management, or owners of companies. Sexual harassment is normally a complaint of women, however men are also victims. (Cooke 1991)

Not all allegations of harassment in the workplace are valid. Most incidents of harassment can be settled in the workplace if everyone works together, including management.

Men think they will be charged with sexual harassment if they compliment a woman. They do not understand that a sexual harassment violation is when the behavior is deliberate, offensive, unwelcomed, and usually repeated in most cases. The men who have known no personal sexual harassment towards themselves probably feel that this is just another womans' issue.

Sexual harassment will be an issue as long as men and women share the same workplace and as long as we have supervisors and

Glossary

subordinates. It is an issue that will have to be dealt with and the first step is **prevention**. (Police Chief, 1991)

Those offices, organizations, companies, and agencies that are without a sexual harassment policy, that fail to train their employees and supervisors, and neglect to act on complaints of any sexual abuse will contribute to their own problems as well as problems within their communities.

Sexual harassment, like any criminal or civil offense, will always be an issue. Those that plan to prevent harassment in their workplaces, will contribute in **equalizing** the relationships of men and women working together.

Definitions
of
Sexual Harassment Behaviors

The following terms are various types of behaviors that may constitute sexual harassment depending on the circumstances in which they are used. A workable definition is attached to each behavior.

Unwanted touching or kiss - where hugs, kisses or pats on the bottoms, or even shoulders or backs are offensive to another.

Pressure for sexual favors - where one is asked to have sex with another, asked for a 'blowjob', 'mustache ride' and other favors of a sexual nature, when the request is unwelcomed.

Unsolicited suggestive looks/leering - staring or leering at another while making sexual intentions known or obvious to others who may be offended.

Threats or bribes - making threats to demote a person's position, or give unwanted or onerous tasks if the person fails to comply with sexual advances or demands.

Sexually oriented jokes - telling obscene jokes in the presence of others without regard as to whether others will find it offensive or not.

Pin-up posters & calendars - displaying posters or calendars, showing nudity or suggestion that is in the view of another who finds its display offensive, or creates by its presence an offensive environment.

Conversations & Language - having conversations and/or using unacceptable language in the presence of others who find it offensive.

Innuendos & Propositions - stating remarks or hinting of desires in an abusive or offensive manner.

Whistling/Catcalling - whistling or making remarks or sounds that will be offensive or embarrassing to the person to whom it is directed or is found to be offensive to one that hears it.

Intimidation - making another timid or frightened by exercising an unneeded power to continue a working relationship.

Personal fantasies - describing to another, the personal desires and wants that are unwelcome and can be taken offensive.

Physical /Emotional Abuse - treating another person in a manner that prohibits them from doing their job or displaying physical force to get what is wanted or desired.

Teasing/Hazing - annoy or play abusive tricks on another knowing they will find the conduct offensive.

Conversing of genitals/breast - talking about the size or shape of genitals and or breasts around someone who is offended to such talk.

Moans, groans, & growling - making noises in the presence of others, with intentions of making the noise sexually harassing .

Obscene phone calls, letters, notes - making obscene phone calls, or leaving letters or notes for the viewing of others without regard to who may be offended.

Dress Codes - enforcing a dress code that would be offensive to another, whereas all employees are not required to dress accordingly.

Disciplinary Action - actions taken, and called discipline, with one sex and not used for another sex. An example of this would be a male employee is given a verbal reprimand for the same violation as a female employee who is demoted.

Playful humping - approaching another from behind when they are bent over or standing, and bumping genitals of one person to the backside of another person.

Goosing/grabbing - poking at anothers' buttocks, or grabbing at the buttock, genitals, or breasts, knowing this conduct is offensive to that person.

Speculation on Virginity - inquiring or conversing as to which female employee are virgins and public conversing of who sleeps with who.

Implied requirements for retention - suggesting that certain favors are required to maintain ones job or status at work.

Derogatory statements - making remarks that take away the quality or reputation of another.

Emotional distress - intentional infliction of pain or sorrow.

Constant demands - making continuous demand on another instilling fear if they fail to comply.

Implied Intentions - indicating or suggesting a purpose for the behavior without actually demanding it verbally.

Fraud/Slander - promising someone something for a favor then refusing to pay up or give the reward, and then to threaten defamatory remarks to others if the injured person insist on the promise being kept, or tells others of the conduct.

Mind Rape - daydreaming in the presence of another, using body and facial language to imply the abduction and sexual intercourse upon the other.

Sexual Harassment Policy

The following is a policy to be submitted to the City of Frisco in hopes that it will be adopted and put in force for the employees of the City.

Sexual Harassment Policy
City of Frisco

I. Purpose

The purpose of this order is to state the City of Frisco's commitment to maintaining a working environment for all employees that is free from intimidation, humiliation or insult whether it be physical or verbal abuse or other actions of sexual, ethnic, racial or religious nature.

II. Policy

Sexual, ethnic, racial or religious harassment is an offense, first against this city, and second, an offense against any specific employee or group of employees. Offenses refer to physical or verbal actions that have the purpose of effect of creating a hostile, offensive, or intimidating working environment that have a sexual, ethnic, racial or religious basis. Examples would include, but are not limited to physical contact of a sexual nature, jokes relating to ethnic, racial religious, or sexual nature, comments, insults, cartoons, innuendoes, or personal conduct or mannerisms that could be construed as offensive in these described areas.

It is this city's policy to take affirmative action to prevent such unwarranted and unwanted conduct from occurring and to deal with all such reported incidents in a fair, impartial and expeditious manner. All complaints or incidents will be investigated on a case by

case basis. In those instances where a violation has been shown to occur, immediate action will be taken to remedy the situation and to prevent its recurrence.

It is each employee's responsibility to help to eliminate all forms of prohibited harassment and unwanted conduct. It will be every supervisors responsibility to prevent such behavior from occurring within their work environment.

All persons who violate this policy will be subject to disciplinary procedures up to and including discharge.

III. Procedures

A. Employees of the City of Frisco should clearly tell the offending party to stop the offensive behavior or conduct because it is perceived to be in violation of this order. The rational behind this is to ensure that the potential offender realizes the conduct is perceived as offensive and not just harmless activity.

1. If the unwanted conduct continues the offended employee should contact their supervisor.

2. Employees are free to contact their supervisor directly, without notifying the offending party.

3. Employees wishing to make a complaint about a violation of the harassment policy should contact their supervisor.

B. Due to the nature of harassment, complaints and the possibility that a supervisor may be involved, employees wishing to make a complaint may make direct contact with the City Manager or the Chief of Police.

C. Employees are not prohibited from making complaints through the Equal Employment Opportunity Commission under the U. S. Civil Rights Act. Employees are encouraged to make their initial complaint with the City and all efforts will be made to correct the problem if one exists.

Other Cases of Interest

Otto v. Heckler (1986) 39 FEP 1754

McKinney v. Dole (1985) 37 EPD 765 f2d 209

Horn v. Duke Homes (1985) 36 EPD 755 f2d 599

Davis v. U. S. Steel (1985) 779 F2d 209

King v. Palmer (1985) 39 EPD 808

Scott v. Sears Roebuck & Co. (1985) 38 EPD 605 FSupp 1047

Katz v. Dole (1984) 32 EPD 709 F2d 251

Robson v. Eva's Supermarkets (1983) 30 FEP 1212

Phillips v. Smalley Maintenance Service, Inc. (1983) 32 EPD

Ferguson v. Dupont (1983) 33 EPD

Craig v. Y & Y Snacks (1983) 32 EPD 721 F2d 77

Henson v. City of Dundee (1982) 32 EPD 682 F2d 897

Hosemann v. Technical Laterals, Inc. (1982) 554 FSupp 659

Bundy v. Jackson (1981) 641 F2d 934

Fisher v. Flynn (1979) 19 EPD 598 F2d 663

Smallwood v. National Car Co. (1978) 18 EPD 583 F2d 419

Alexander v. Gardner Denver Co. (1977) 8 EPD 415 US 35

Corne v. Bausch and Lomb, Inc. (1975) 561 F2d 983

Skousen v. Nidy (1962) 90 Ariz 215, 367 P2d 248

Samms v. Eccles (1961) 11 Utah 2d 289, 358 P2d 344

Mitran v. Williamson (1960) 21 Misc2d 106, 197 NYS2d 689

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