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# JAIL BULLETIN

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NUMBER 49

January, 1989

The Jail Bulletin is a monthly feature of the Crime Commission Update. The Bulletin may be used as a supplement to your jail in-service training program if officers study the material and complete the attached "open book" quiz. The Bulletin and quiz may be reproduced for use by your staff. We welcome any jail training materials you would like to contribute to the Bulletin.

## HARASSMENT IN THE WORKPLACE - PART III

### WHAT ARE YOUR CHOICES IF YOU ARE THE RECIPIENT OF SOME FORM OF SEXUAL HARASSMENT?

There is comfort and strength in knowing one's rights. Using the threat of formal action is often enough to deter the harasser or to alert management to consider its choice of response. However, before you begin any formal procedure, there are some informal tactics which might be used to discourage the harasser and improve your situation.

1. Speak to the harasser. Make it clear what behavior you are objecting to. Don't smile or be embarrassed but look the person in the eye and say, "I don't care for that (behavior) and I want you to stop . . .NOW!"
2. Prepare a written memo (Documentation of the occurrence(s)). Define harassing behavior and send it to the harasser with copies going to his supervisor.
3. Speak to your supervisor. If the harasser is your supervisor, ask to speak to his supervisor or to someone who has authority over the harasser.

### ORGANIZATIONAL DISCIPLINE

Once management is aware that sexual harassment is occurring, positive discipline will be quickly initiated by the following steps:

1. Informal Warning. Harasser is apprised verbally of inappropriate behavior.
2. Written Warning. A written record is discussed and put in harasser's file and performance monitoring/coaching will begin.
3. Suspension. If the employee fails to improve, the next step is suspension.
4. Termination. And finally, termination.

The goal of positive discipline is to change behavior. Termination occurs only after all steps are carried through and documented. When positive discipline is fully understood and implemented with factual documentation, impressive results occur such as . . .

- o Increased morale since the procedure is positive and the expectations are clear;
- o Decreased organizational tension since there is a reduction of anxiety;
- o Problem resolution is effected at an earlier stage;
- o Actual documentation reduces grievance; and
- o Most importantly, a legally defensive system of administering discipline is effected.

#### SUMMARY

1. Title VII of the Civil Rights Act of 1964 is the principle law prohibiting sex discrimination (harassment) in employment.
2. Sexual harassment in employment is a condemned practice, although it is not always easy to define. EEOC published Guidelines On Discrimination Because Of Sex, which defines sexual harassment in terms of "Unwelcome Advances," or verbal or physical conduct of a sexual nature, when submission is a condition, expressed or implied, of continued employment, when employment decisions depend on doing or not doing requested sexual conduct, or when the conduct interferes with work performance or creates "an intimidating, hostile, or offensive working environment."
3. A charge of sexual harassment may be at once a sword and a shield ("Where there is smoke there is fire" thinking.) You should be alert to the hazards, and not accuse, or open yourself to possible accusations. Many men and women are harmless "touchers." It is good to keep in mind that a person of the opposite sex may not consider your voice or touch irresistible or even friendly, and may resent it. It is also good to keep in mind that a touch may or may not be an invitation. Sexually orientated conversation can constitute harassment. Patting of the body, inquiring into the personal sex lives of employees, and lewd jokes/comments have also been found to be harassment.
4. Individuals have won sexual harassment cases involving a refusal to date. . . direct requests for sexual conduct are the most obvious, and the charge most likely will be sustained, if provable.
5. If an employer knew or should have known what their employees were doing, the supervisor (vicarious liability) can be liable for their harassing conduct, particularly that of subordinate supervisors.

6. If you feel you are being harassed, the best first step is to speak up to your harasser; make your feelings known; this sometimes ends it. Suffering in silence does not. If that fails, write a memo to the harasser describing the harassing behavior and that you want it stopped. Copies should be sent to the harasser's supervisor.

## QUIZ

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of in-service training each year. The Jail Bulletin may be used to supplement in-service training if an officer studies the Bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspection.

SUBJECT: HARASSMENT IN THE WORKPLACE  
PART III

NAME \_\_\_\_\_

NUMBER: 49

DATE \_\_\_\_\_

1. If you are a recipient of sexual harassment, you should first

\_\_\_\_\_ Ignore it and hope that it will go away.

\_\_\_\_\_ Take positive action to stop the harassment including informing the harasser you object to the behavior, documenting the behavior, and informing the harasser's supervisor of the problem.

\_\_\_\_\_ Don't make waves because you will only get into trouble.

\_\_\_\_\_ File a lawsuit

2. What Federal law prohibits discrimination based on sex?

\_\_\_\_\_

3. Vicarious liability is:

\_\_\_\_\_ Occasional liability

\_\_\_\_\_ Liability of supervisors for actions of subordinates

\_\_\_\_\_ Based on the famous "Pabulum Defense"

\_\_\_\_\_ An ignominious theory used only by Philadelphia lawyers.

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ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR.

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TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

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