
JAIL BULLETIN

NUMBER 48

December, 1988

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 II

THE FEDERAL GUIDELINES:

In November of 1980, the Equal Employment Opportunity Commission (EEOC) issued guidelines defining sexual harassment as sex discrimination. Sexual harassment is a form of sex discrimination, and is covered by Title VII of the Civil Rights Act of 1964 when . . .

1. Submission to such conduct is made either explicitly or implicitly a term for employment.
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The guidelines state that management is responsible and liable (vicarious liability) for actions of its agents (supervisors) who might engage in sexually harassing behavior. It is also responsible for the acts of sexual harassment between co-workers and even non-employees if it knew or should have known of the problem. Non-employees would include anyone with whom an employee comes in contact at work - inmates, visitors, clients, customers, etc. The liability for management is reduced if it can show that it took "immediate and appropriate corrective action" in these cases.

HOW DO INDIVIDUALS REACT TO SEXUAL HARASSMENT?

1. Some ignore it -- this rarely works and usually it gets worse. (Talking about it helps. The victim sometimes realizes that others, too, are being harassed.)
2. Some quit or transfer (this allows the harassing to continue unabated.)

3. Some submit which causes a loss of self-esteem.
4. Some develop physical problems, mental anguish, isolation, depression.
5. Some object . . . it is important to realize that objecting to sexual harassment at work does not reflect an individual's attitude about sex but their attitude about their work.

WHAT MAY BE THE IMPACT ON THEIR JOBS FROM THEIR REACTIONS?

Depending on who the harassee is the impact may be . . .

1. Unemployment
2. Lower status job
3. Loss of self-esteem/self-worth
4. Poor employment history (job changes, demotions, etc.)
5. Negative performance appraisal
6. Labeled as a "trouble maker"

WHAT ARE THE EFFECTS/AFFECTS ON THE INDIVIDUAL WATCHING THE HARASSMENT?

1. Anger (Why does this person get away with doing this act?)
2. Helplessness (Who can help?)
3. Revulsion (75% of women surveyed by Redbook Research found harassment embarrassing, demeaning, intimidating)
4. The power some people have in the work place is reaffirmed . . . they get away with it.
5. Some try what they see happening, but cannot pull it off because of personality differences. (What works for one person does not work for another.)
6. Self-righteous indignation (Coming to the defense of the harassee).
7. Amusement, indifferences, pleasure, sport (Men have been socialized into believing that only they take the sexual initiative and exercising it is a test of their manhood.)

WHAT ARE THE EFFECTS/AFFECTS ON THE ORGANIZATION?

1. Unhealthy climate (Inmates see that the keeper is no better than the kept.)
2. Low productivity, low morale (The pettiness and competition for power take time away from organizational goals)

3. Money lost in time and settlements
4. Disability claims, work absences (It is difficult to work in an intimidating environment)
5. High turnover, recruiting problems

WHAT ARE THE IMPLICATIONS IN CORRECTIONS WORK?

Title VII of the Civil Rights Act of 1964 provides that an employee has a right to a working environment free of harassment on the basis of one's race or national origin. The Second Circuit Court of Appeals was recently presented an appeal involving a group of Black and Hispanic corrections officers seeking their employer's help in cleaning an atmosphere that is recognized as harsh and cruel -- a prison facility. *Snell vs. Suffolk County*, 782 F. 2d 1094 (2d Cir. 1986)

The trial court had found the officers had been "subjected to vicious, frequent, and reprehensible instances of racial harassment," constituting a "concerted pattern of harassment," which deprived them of their Title VII rights. Because the trial court determined the County had not taken adequate steps to address the complaints, the county warden was ordered to:

1. Appear before all correction officers and "declare that the county will not tolerate any correction officer's action discriminating against another correction officer because of his or her minority status."
2. Forbid the use of racial epithets, posting or distribution of derogatory bulletins; mimicking officers in stereotypical fashion and the use of racial slurs and humor; and
3. State that the above actions would result in prompt and severe discipline.

The Second Circuit agreed with the lower court that the plaintiffs had proven more than a few isolated incidents of racial enmity. The appellate court also examined the requirements for holding an employer liable under Title VII, once an atmosphere of harassment between co-workers has been established. According to the court, an employer must take measures which are both feasible and reasonable under the circumstances to combat the offensive conduct. Whether the employer has fulfilled its responsibility in this regard will depend on the gravity of the harm, the nature of the work environment, and the resources available to the employer.

This decision points out to supervisors that to establish a hostile atmosphere, plaintiffs must prove that more than casual comments, or accidental or sporadic incidents on account of one's race or nation origin have taken place. Also, once a supervisor has knowledge of the harassment in the work place, he or she has the duty to take reasonable steps to eliminate it.

WHAT ARE THE DIFFERENCES BETWEEN SEXUAL HARASSMENT, SEX DISCRIMINATION, AND AN OFFICE ROMANCE?

Many times individuals will complain that they are being sexually harassed when what is happening is sex discrimination. Personnel policies, practices or procedures which adversely affect individuals as a class based on their sex constitute sex discrimination. For instance, if men are allowed to attend management training while women on the same level are denied, then the issue is sex discrimination.

Sexual harassment, as defined earlier, is clearly one kind of sex discrimination with the verbal or physical actions involved being sexual. Demanding sexual favors of women and not demanding them of men is discriminatory, and since it involves sexual activity, it is sexual harassment.

Both of these are different from an office romance, since that involves a relationship freely entered into by both parties. It is voluntary, while sexual harassment is coercive . . . it is a forced trade of work-related benefits for sexual favors.

Since the law is concerned with unwelcome sexual conduct which adversely affects a woman's or man's career, the new regulations should not stand in the way of either the relaxed occasions when people who work together develop a more serious--voluntary--relationship. It is understood that tension, competition, and attraction will always exist between people who work together.

Adherence to the regulations may stop the most blatant types of harassment, but the more subtle forms will exist until attitudes are changed. Many of the activities which constitute sexual harassment may be the result of. . .

1. Years of Social Conditioning: Where men believe that a women's sexuality is the only basis for evaluating her work, thereby making the quality of her work unimportant, and emphasizing her only real responsibility is to satisfy male sexual desires. Unfortunately, some females still accept this role and reinforce this attitude.
2. Habits: Which create many problems and perpetuate many male-female myths. Automatic behaviors, both good and bad, have enormous strength and persistence. Often we hear people make statements such as these.
 - "You can't change human nature."
 - "I am the way I am."
 - "She's hopeless"/"He's hopeless."
 - "This is the way it's always been."
 - "But we've always done things this way."

These statements indicate a pervasive helplessness and can lead to a negative self-fulfilling prophesy. People who talk this way don't control their own habits and consider habits to be uncontrollable. They become slaves to the master habit.

The way to change habits is not necessarily to unearth their deeper origins but simply to start behaving differently. If we find that a habit is offensive to others, we have to make a choice of whether it is important to change or to stay in the habit and continue being offensive. In this area of harassment and discrimination, it is important that policy clearly indicate what are expected and acceptable behaviors and emphasize that the organization will tolerate nothing less.

The steps to break an offensive habit are:

1. Define the Habit. Someone has brought the offensive habit to your attention. It is not until we realize the offensive habit for what it is, that behavioral change will be effected. "I didn't mean to," we say of our habituations, or, "Do I really do that?" Behavioral change begins by our being conscious that we are doing something that is offensive.
2. Consequence Count. "Do I care about others who are offended by my behavior?" "What is at stake if I don't change this habit?" If the stakes (loss of job/health/respect) are high enough, it's worth the effort to change.
3. Decision Time. The consequence count should be helpful when it comes to deciding to change or not. The decision must be made one way or the other. Hopefully for better than worse.
4. Set Goals For Habit Change. You have decided for change. Congratulations! There are two effects necessary to goal setting: Choice and Will. Choice is rational: we choose (internalize) to break a habit that is offensive to others. Will is primarily emotional. It is the courage to act despite fear and what our ego demands; it takes integrity to follow through and meet our set goals.

You have now defined and questioned the habit, made a conscious decision to change, and have set the goal for attainment. The last step is to . . .

5. Do It. Procrastination and some negative peer pressure and we could be back where we started from. Your bad habit is no cause for punishment, resentment, bad feelings, or anger. Look for the positives. . . give change a chance . . . more likely than not, you'll be the better for it!

Personal and Peer Expectations . . . Do play a big role in the areas of harassment and discrimination. If there is to be equality in the workplace, it will be because the organizational policy has defined expectations. The policy guidelines identify inappropriate behavior and this establishes performance standards for work. Maintenance of those guidelines is crucial through day-to-day coaching activities and performance appraisals.

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 II
NUMBER: 48

NAME _____
DATE _____

1. Equal Opportunity Commission guidelines don't cover inmates or members of the public.

_____ TRUE _____ FALSE

2. Persons who object to sexual harassment have a problem with their attitude about sex.

_____ TRUE _____ FALSE

3. Sexual harassment can have a negative impact on the harasser, a person observing the harassment and the organization in general.

_____ TRUE _____ FALSE

4. Define sex discrimination.

5. "Years of Social Conditioning" - This concept provides a reasonable excuse for sexual harassment because some guys are "Just Hopeless."

_____ TRUE _____ FALSE

CREDIT: 1/2 HOUR CREDIT FOR JAIL IN-SERVICE TRAINING REQUIREMENT.

ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR.

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 II
NUMBER: 48

NAME _____
DATE _____

1. Equal Opportunity Commission guidelines don't cover inmates or members of the public.

_____ TRUE XXX FALSE

2. Persons who object to sexual harassment have a problem with their attitude about sex.

_____ TRUE XXX FALSE

3. Sexual harassment can have a negative impact on the harassee, a person observing the harassment and the organization in general.

XXX TRUE _____ FALSE

4. Define sex discrimination.

PERSONNEL POLICIES, PRACTICES OR PROCEDURES WHICH ADVERSELY AFFECT
INDIVIDUALS AS A CLASS BASED ON THEIR SEX

5. "Years of Social Conditioning" - This concept provides a reasonable excuse for sexual harassment because some guys are "Just Hopeless."

_____ TRUE XXX FALSE

CREDIT: 1/2 HOUR CREDIT FOR JAIL IN-SERVICE TRAINING REQUIREMENT.

ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR.