

Mayor's Council for Women

Sexual Harassment White Paper

Prepared by

The Justice Committee

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SEXUAL HARASSMENT IN OUR WORKPLACES

INTRODUCTION

In February of 2018, the Chattanooga Mayor's Council for Women held its inaugural statewide policy conference. The event was attended by over 350 women and represented all the major metro areas in Tennessee. A variety of policy related issues were discussed as it relates to women's political participation, financial well-being, health, and more. At the conclusion of the event, attendees were asked to provide feedback on issues they feel are most important to them. One of the prevalent responses was the subject of sexual harassment and the abuse that women experience at the hands of authority figures. It is this reason that the work group on Sexual Harassment was born.

BACKGROUND

Sexual harassment is defined as [bullying](#) or [coercion](#) of a sexual nature and the unwelcome or inappropriate promise of rewards in exchange for sexual favors.^[1] - or - as defined by the United States Equal Employment Opportunity Commission, "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment."^[2]

The problem of sexual harassment is not a new one but is centuries old. Throughout history we have seen examples of the practice over and over again:

- Slave women were subject to sexual exploitation, coercion and sexual assault by their masters and overseers
- Domestic servants have been inappropriately touched, raped, and sometimes seduced and abandoned by their male employers
- Female factory workers have to endure the threats from male supervisors and colleagues and are often intimidated and assaulted resulting in a toxic culture in many male dominated factories
- Female administrative professionals treated as objects of their male supervisors
- Women are asked to perform sexual favors to executives in order to earn a spot in a movie or TV show
- Female tech startups founders encounter male investors expecting sexual payback for investing in their companies.

The habitual cycle continues as women progress in their careers and the endless attempt at breaking the glass ceiling. Even so, we have come far as a society and are continuing to evolve

to understand the impact on the social order.

In the 1970's and 1980's, women challenged sexual harassment through the court system by applying civil rights principles to sexual discrimination.

KEY SEXUAL HARASSMENT CASES

Bundy v. Jackson

This was the first federal appeals case to find that employment discrimination included sexual harassment under the Civil Rights Act of 1964.

Sandra Bundy was sexually harassed by several employees and supervisors at her workplace, the District of Columbia Department of Corrections. This included Delbert Jackson, who later became the director of the organization. Bundy's supervisors regularly questioned her about her sexual preferences and invited her back to their apartments or to motels. When she complained to her supervisors' superior, he told her that "any man in his right mind would want to rape you" and then propositioned her himself.³ After such, Bundy's supervisors began to criticize her for taking too much time off and poor work performance, though she had never received such criticisms prior to her complaint. Bundy filed an informal and then a formal complaint with the Equal Employment Opportunity officers, but they only cautioned her against bringing unwarranted complaints. When no action was taken, Bundy filed suit in 1977 in the United States District Court for the District of Columbia seeking declaratory and injunctive relief.

The District Court found that sexual harassment was standard operating procedure at her workplace, but held that Bundy's rights under Title VII of the Civil Rights Act of 1964 had not been violated. Title VII prohibits discrimination (on the basis of sex or certain other characteristics) with respect to "compensation, terms, conditions, or privileges of employment."⁴ The District Court held that, despite Bundy's allegations, her promotions had not been delayed or denied due to her rejections of her supervisors' unwanted sexual advances.

However, she persisted in filing an appeal - and won. The court ruling established that sexual harassment in the workplace would qualify by illegal denial of promotion in retaliation against the plaintiff's refusal of sexual advances by her supervisors, but the plaintiff must show

- (1) that she was a victim of a pattern or practice of sexual harassment attributable to her employer, and
- (2) that she applied for and was denied a promotion for which she was technically eligible and of which she had a reasonable expectation.

The employer then must bear the burden of showing, by clear and convincing evidence, that he had legitimate nondiscriminatory reasons for denying the claimant the promotion.

Meritor Savings Bank v. Vinson

This was the first Supreme Court case to find sexual harassment as an illegal form of discrimination under the Civil Rights Act of 1964.

Michelle Vinson worked for Meritor Savings Bank and reported her supervisor, Sidney L. Taylor, for years of recurring sexual harassment while in the workplace. The first initiation of Vinson's civil lawsuit against Sidney L. Taylor and the bank, came in September of 1978. However, in November 1978 Vinson was fired from her job, which Taylor explained as being due to Vinson's inordinate use of sick leave.

Vinson charged that Taylor had coerced her to have sexual relations with him and made demands for sexual favors at work. Vinson stated that she had intercourse with Taylor 40 or 50 times. Additionally, she testified that Taylor had touched her in public, exposed himself to her, and forcibly raped her multiple times. She argued such harassment created a "hostile working environment" and a form of unlawful discrimination under Title VII of the Civil Rights Act of 1964. Vinson sought injunctive relief along with compensatory and punitive damages against Taylor and the bank.

The primary question presented was whether a hostile work environment constituted a form of unlawful discrimination under the Civil Rights Act of 1964, or if the Act was limited to tangible economic discrimination in the workplace.

The Court held that Title VII was "not limited to 'economic' or 'tangible' discrimination" and specified that sexual harassment leading to non-economic injury was a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964. The Court recognized that the plaintiff could establish violations of the Act by proving that discrimination based on sex has created a hostile or abusive work environment. A plaintiff with hostile environment-styled claims must prove that the conduct was severe or pervasive, created a hostile or abusive working environment, was unwelcome, and was based on the plaintiff's gender.

Additionally, this case ruled that the sexual conduct between Taylor and Vinson could not be deemed voluntary due to the hierarchical relationship between supervisor and subordinates in the workplace.

Following the ruling of Meritor Savings Bank v. Vinson, reported sexual harassment cases grew from 10 cases being registered by the EEOC per year before 1986 to 624 case being reported in the subsequent following year. This number of reported cases rose to 2,217 in 1990 and then 4,626 by 1995. Reported cases following this court ruling include the highly publicized case of the Anita Hill and Clarence Thomas hearings.

CURRENT CLIMATE

In late 2017, the subject of sexual harassment was highlighted in the New York Times article reporting dozens of women accused American film producer Harvey Weinstein, formerly of Miramax Films and The Weinstein Company (TWC), of rape, sexual assault and sexual abuse over a period of at least 30 years. Not only is he now facing multiple indictments, it precipitated an immediate "national reckoning" against sexual harassment and assault in the United States. The scandal triggered many similar allegations against powerful men around the world, and led to the ousting of many of them from their positions. It also led a great number of women to share their own experiences of sexual assault, harassment, or rape on social media under the hashtag #MeToo.

Unfortunately, Chattanooga is not immune to the problem. Just this January, a sexual harassment lawsuit was filed by a female working for CoreCivic. As a prison guard, she was repeatedly required to work alone with male inmates who sexually harassed, groped and attacked her. Coworkers repeatedly ignored the guard's calls for help — even during "code red" emergencies, the suit said. Staff at the prison shrugged off the guard's reports of harassment, with a supervisor telling her to "grow a tougher skin" and a human resources worker saying "boys will be boys," according to the lawsuit. The litigation is pending.

Our own City of Chattanooga Police Department has also recently been accused of sexual harassment against female cadets, which spanned multiple academies and impacted multiple cadets. This year, complaints were made that included: treating females differently than males, being flirtatious with female cadets, "shirts off" comments, feeling uncomfortable around the accused officer, and afraid to be alone with him for receiving unwanted physical advances. In February, the officer that was subject of the complaint was suspended for 160 hours and was also provided with a last chance agreement that addresses sexually harassing behavior toward female colleagues. He is required to attend sexual harassment training.

To further explore the issue locally, this workgroup conducted a survey of women in Chattanooga about their experiences. The results showed that 56% of women surveyed in our city have experienced workplace sexual harassment. Important to note is that **26% of women surveyed indicated they either didn't know their options, would leave their job, or just keep quiet in fear of reprisal.**

IMPACT ON WOMEN

Sexual harassment and assault can affect individuals in a number of ways, including their mental and physical health, finances, and opportunities to advance in their careers.

- Negative effects on mental and physical health: Exploratory research on the intersection of racial and sexual harassment suggests that harassment can lead to depression; one study reported that one in ten women who experienced harassment had such severe symptoms that they met the definition of PTSD.
- Reduced opportunities for on-the-job learning and advancement: In many occupations, becoming a skilled worker and advancing in one's profession depends on on-the-job instruction and mentorship of more experienced workers. Harassment can restrict women's access to such learning opportunities
- Forced job change, unemployment, and abandonment of well-paying careers: Unemployment is a concern for some women who feel they must leave a job due to sexual harassment before finding another job opportunity (The Nation 2018). A recent study finds a high correlation between harassment and job change: eight in ten women who experienced sexual harassment began a new job within two years after experiencing harassment (compared with just over half of other working women).

Workplace harassment can result in substantial costs to companies, including legal costs if there are formal charges of harassment, costs related to employee turnover, and costs related to lower productivity from increased absences, lower motivation and commitment, and team disruption.

INITIATIVES AND PROGRAMS IN CHATTANOOGA*

This workgroup conducted an extensive search for any available programs for women who have experienced sexual harassment and/or educational opportunities about sexual harassment in the workplace.

- Voluntary workplace educational sessions are provided by some large local employers to its employees (Unum). *Note: This appears to be mainly available to large employers who have the discretionary funds for this type of training. Many small businesses do not have the resources to offer this type of training.*
- Women's Support Group provides a weekly session for women who have experienced any kind of trauma, including sexual harassment.

**this is not an extensive list of all initiatives and community programs in Chattanooga, TN*

CONCLUSION AND RECOMMENDATIONS

The Justice Committee believes that all women have the fundamental right to feel safe at their place of work. We also believe that if women experience sexual harassment, that they should be able to report it without retribution and that it will produce an immediate resolution to rectify the problem.

The City of Chattanooga has an opportunity to be a beacon for women as a place for progressive healing and prevention. In order to address the pervasive dilemma of sexual harassment in the workplace, we recommend that the City take a stand to combat the current climate. We suggest the following strategies:

1. Create a zero-tolerance policy for any sexual harassment within city government. If a person is found to have sexually harassed another, termination would be the definitive outcome.
2. Encourage all employers to have anti-harassment policy and adequate reporting mechanism for its employees.
3. Educational push led by the City of Chattanooga to raise awareness and educational opportunities for employers, particularly smaller businesses.
4. Create a program for new and existing businesses to use for training of their employees about sexual harassment prevention. This could include computer based training modules, training materials, and employer checklists.
5. Require that applicants for city business licenses participate in the program.

It is important to address this issue for the well-being of all women in Chattanooga and beyond. Taking steps now will serve our descendants to experience a world in which this problem will be rare in its existence, and if it does - they will be equipped with the tools to address the issue.

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REFERENCES

- 1 - Paludi, Michele A.; Barickman, Richard B. (1991). "Definitions and incidence of academic and workplace sexual harassment". *Academic and workplace sexual harassment: a resource manual*. Albany, New York: SUNY Press. pp. 2–5. ISBN 9780791408308
- 2 - U.S. Equal Employment Opportunity Commission - Facts About Sexual Harassment
<https://www.eeoc.gov/eeoc/publications/fs-sex.cfm>
- 3 - *Bundy v. Jackson*, 641 F.2d 934, 940 (D.C.Cir. 1981)
- 4 - 42 U.S.C. § 2000e-2(a)(1)
- 5 *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986)
- 6 - <https://www.nytimes.com/interactive/2017/12/05/us/harvey-weinstein-complicity.html>
- 7 -
<https://www.tennessean.com/story/news/2019/01/11/corecivic-ignored-prison-guard-reports-inmates-sexual-harassment-lawsuit-chattanooga-tennessee/2546820002/>
- 8 -
<https://wdef.com/2019/02/20/several-officers-come-forward-accusing-chattanooga-police-officer-of-sexual-harrassment/>
- 9 - <https://iwpr.org/publications/sexual-harassment-work-cost/>
- 10- Center for a Brighter Tomorrow, PLLC 7372 Applegate Lane Chattanooga, Tennessee 37421
(423) 354-3103

APPENDIX A - CHATTANOOGA SURVEY QUESTIONS

1. What is your gender?
2. What is your career level?
3. Which of the following best describes the # of employees in your organization?
4. What type of industry do you work in?
5. Is there educational training about sexual harassment for employees in your organization?
6. Do you feel that sexual harassment in the workplace is taking place in your organization?
7. Do you know how to report sexual harassment if witnessed or experienced in your workplace? Have you personally encountered sexual harassment in the workplace?
8. If you answered yes to the last question, please indicate the form of harassment.
9. If you were to or have already experienced or witnessed sexual harassment in the workplace, how would you or have you acted or reacted?
10. What are the reasons that you would not report sexual harassment if experienced?
11. On a scale of 1 - 5, how familiar are you with current legislation that deals with sexual harassment in the workplace?
12. If you would like to share more of your story with us, please provide us with your name, number and email. This is purely optional, but may help us with our case studies.

APPENDIX B - CHATTANOOGA SURVEY RESULTS

A summary has also been included as [appendix B](#).