



## SEXUAL HARASSMENT IN THE FEDERAL GOVERNMENT: AN UPDATE

June 1988

A Report to the President and to the  
Congress of the United States by the  
U.S. Merit Systems Protection Board

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THE CHAIRMAN

U.S. MERIT SYSTEMS PROTECTION BOARD  
1120 Vermont Avenue, N.W.  
Washington, D.C. 20419

June 30, 1998

Sirs:

In accordance with section 202(a) of the Civil Service Reform Act of 1978 (5 U.S.C. § 1205(a)(3)), it is my honor to submit this U.S. Merit Systems Protection Board report titled "Sexual Harassment in the Federal Government: An Update."

This report discusses the results of a major study undertaken by the Board to determine the nature and extent of sexual harassment in the Federal Government. It updates the findings of an earlier study by the Board which resulted in a landmark report issued in 1981.

This current report finds that sexual harassment remains a widespread problem in the Federal workplace. It discusses what Federal agencies and employees have done in response to sexual harassment and provides recommendations for additional corrective actions.

I think you will find this report useful as you consider issues affecting the efficiency and effectiveness of the Federal work force.

Sincerely,

Daniel R. Levinson

The President  
The President of the Senate  
The Speaker of the House of Representatives  
Washington , DC

## U.S. Merit Systems Protection Board

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## Executive Summary

*This report discusses the results of a major 1987 survey and study dealing with sexual harassment in the Federal workplace. It marks the second time the US Merit Systems Protection Board has focused on this important topic. As an update, the report provides some contrasts and comparisons with data gathered in the Board's first landmark study of sexual harassment in 1980. It details findings on employee attitudes toward and experiences with uninvited behavior of a sexual nature. It also describes the actions Federal agencies have taken in*

*their efforts to reduce sexual harassment, and the financial as well as human costs when those efforts fall short. The report reviews relevant case law that has developed over the last 7 years as the Board and the courts have sought to define the legal rights and redress for victims of sexual harassment. It concludes with recommendations for future action within the Government.*

## **Background**

In late 1979, the Subcommittee on Investigations of the U.S. House of Representatives' Committee on Post Office and Civil Service requested that the U.S. Merit Systems Protection Board (MSPB) conduct a thorough and authoritative study of sexual harassment in the Federal workplace. The Board was asked to carry out the study since it is an independent, quasi-judicial agency that decides appeals from personnel actions taken against Federal employees and conducts studies of the civil service and other merit systems. It is responsible for protecting the integrity of the Federal civil service system from abuse.

The initial study of sexual harassment conducted by MSPB in 1980, with a final report issued in early 1981, was a "first of its kind" broad-scale survey of the attitudes and experiences of a representative cross-section of both self-identified victims and nonvictims within the Federal Government.

In 1986, on its own initiative, the Board decided to conduct a followup study on sexual harassment to determine what changes, if any, had occurred in the Federal Government since the time of the first study. As part of this followup study, which was conducted in 1987, a questionnaire that replicated much of the original survey was used so responses for 1987 could be compared with the 1980 data. The questionnaire was sent to a representative cross-section of approximately 13,000 Federal employees, and 8,523 employees responded.

One of the difficulties inherent in any discussion of sexual harassment is that the term itself is a "term of art" that holds different meanings for different people. In late 1979, the U.S. Office of Personnel Management (OPM) issued a policy statement that defined sexual harassment as "deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome." In 1980 the Equal Employment Opportunity Commission (EEOC) issued guidelines on unlawful discrimination because of sex that expanded this definition. EEOC specified, for example, that conduct of a sexual nature could be considered sexual harassment if it created "an intimidating, hostile, or offensive working environment." The EEOC guidelines also noted that a determination of the legality of alleged sexually harassing conduct would be made from the facts, on a case-by-case basis.

Since the EEOC guidelines were issued, a body of legal precedents, including a 1986 Supreme Court decision, has provided legal clarification as to what constitutes sexual harassment. For purposes of this report, however, the Board relies upon the expressed views of Federal employees for its definition. If a respondent to the Board's survey stated that he or she had received uninvited or unwanted sexual attention during the preceding 24 months, that was counted as an incident of sexual harassment even though not every incident, if fully investigated, would necessarily meet the legal definition of sexual harassment.

As this report discusses, sexual harassment in the workplace, like racial discrimination, can be a pervasive form of illegal discrimination that is both difficult to precisely measure and difficult to change. Yet, like racial discrimination, sexual harassment must be addressed so that positive change can occur. The purpose of this report is to clarify the nature and extent of the problem within the Federal Government, to review some of the actions taken during the last 7 years to address that problem, and to offer some suggestions for future efforts.

## Summary of Findings

**Compared to 7 years ago, Federal workers are now more inclined to define certain types of behavior as sexual harassment.** For example, in 1980 approximately 77 percent of all employees considered uninvited pressure for dates by a supervisor to be sexual harassment. In 1987 that percentage had increased to almost 84 percent. Likewise, in 1980, 84 percent of male employees and 91 percent of female employees considered unwanted supervisory pressure for sexual favors to be sexual harassment. In 1987 those percentages had increased to 95 percent and 99 percent, respectively. Similar changes were seen in employee attitudes about most other types of behavior.

**In 1987, 42 percent of all women and 14 percent of all men reported they experienced some form of uninvited and unwanted sexual attention.** Despite an apparent increase in the level of sensitivity about what behavior may be considered sexual harassment, there has been no significant change since the Board's last survey in 1980 in the percentage of Federal employees who say they have received such uninvited and unwanted attention. Within the context of this report, unwanted and uninvited sexual attention is considered sexual harassment. Interestingly, among current Federal employees who had also worked outside the Federal Government, the preponderant opinion is that sexual harassment is no more of a problem in the Government than outside it.

**The most frequently experienced type of uninvited sexual attention is "unwanted sexual teasing, jokes, remarks, or questions." The least**

**frequently experienced type of harassment—"actual or attempted rape or assault"—is also arguably the most severe.** Sexual harassment takes many forms and an employee may experience more than one form. In answering the Board's 1987 survey, 35 percent of all female respondents and 12 percent of all male respondents said they experienced some type of "unwanted sexual teasing, jokes, remarks, or questions." Also in 1987, approximately .8 percent of all female respondents and .3 percent of male respondents said they experienced "actual or attempted rape or assault."

**The incidence rate for alleged sexual harassment varies by agency.** For example, in 1987 a high of 52 percent of the female employees at the Department of State claimed they experienced some form of uninvited sexual attention, compared to a low of 29 percent of the female employees at the Department of Health and Human Services. Moreover, among the 16 agencies whose employees were surveyed in both 1980 and 1987, several did show some shifts in the percentage of employees claiming they experienced uninvited and unwanted sexual attention. A few agencies (for example, the Departments of Labor and Transportation) experienced a significant decline in the percentage of female employees who said they were harassed.

**Coworkers are much more likely than supervisors to be the source of sexual harassment.** In 1987, 69 percent of female victims and 77 percent of male victims said they were harassed by a coworker or another employee without supervisory authority over them. Only 29 percent of the female victims and 19 percent of the male victims cited someone in their supervisory chain as the source of their harassment. This pattern is consistent with the Board's 1980 findings.

**Some individuals are more likely than others to be victims of sexual harassment.** For example, based on the data obtained in 1987, women who: are single or divorced; are between the ages of 20 and 44; have some college education; have a nontraditional job; or work in a predominantly male environment or for a male supervisor have the greatest chance of being sexually harassed. However, as the Board found in 1980, despite this generalization, sexual harassment is still widely distributed among women and men of all ages, backgrounds, and job categories.

**Many victims tried more than one response to unwanted sexual attention. Although later judged ineffective by most of them, almost half of all victims tried to ignore the behavior or otherwise did nothing in response.** In 1987, only 5 percent of both female and male victims said they took some type of formal action. Although most employees were aware of the availability of formal action—e.g., filing a grievance or a discrimination complaint—very few chose to use those potential remedies.



**When victims of sexual harassment did take positive action in response to unwanted sexual attention, it was largely informal action and, in many cases, was judged to be effective.** The most effective and frequently taken informal action was simply telling the harasser to stop. Forty-four percent of the female victims and 25 percent of the male victims said they took this action and, in over 60 percent of the cases, both groups said it "made things better."

**Among the 22 largest Federal departments and agencies surveyed, all had issued policy statements or other internal guidance during the 7-year period from FY 1980 through FY 1986 concerning prohibitions against sexual harassment.** How frequently that guidance was updated and each agency's method of dissemination varied. Most employees, however, said they are aware of their agency's policies regarding sexual harassment and the internal complaint procedures available to victims.

**Every agency maintained it provided training on the issue of sexual harassment, although most efforts were directed at managers and personnel and equal employment opportunity officials rather than nonsupervisory employees.** Most (18 of 22) agencies estimated that during the 7-year period from FY 1980 through FY 1986, the average employee spent 2 hours or fewer in training related to sexual harassment. It should be noted, however, that agencies are not required to keep detailed records in this regard and, therefore, most responses tended to be "best estimates."

**Most agencies maintained that they have taken a number of different actions in an effort to reduce sexual harassment and that, in most cases, those actions have been effective. Employees were more skeptical.** For example, every agency surveyed said it provided "swift and thorough investigations of complaints" and that such investigations were effective. Only 32 percent of the employees surveyed felt their agencies provided such investigations.

**During the 2-year period from May 1985 through May 1987, sexual harassment cost the Federal Government an estimated \$267 million. This cost is in addition to the personal cost and anguish many of the victims had to bear.** This conservative estimate is derived by calculating the cost of replacing employees who leave their jobs as a result of sexual harassment, of paying sick leave to employees who miss work as a consequence, and of reduced individual and work group productivity.

## **Conclusions and Recommendations**

Based on the findings discussed in this report, since the Board conducted its first study of sexual harassment, there is evidence that some positive changes have occurred in Federal employee attitudes and perceptions regarding uninvited sexual attention. More employees, both men and women, are aware that certain behaviors of a sexual nature can be both unwanted and inappropriate in the workplace. In addition, most employees are now aware that sexual harassment is contrary to established agency policy. During this time, Federal agencies have also taken a number of actions designed to reduce the incidence of sexual harassment and at least a few agencies have had some success in this regard.

Despite these positive trends, however, the overall bottom line did not change. Uninvited and unwanted sexual attention was experienced by almost the identical proportion of the work force in 1987 as in 1980. Sexual harassment is still a pervasive, costly, and systemic problem within the Federal workplace.

**The Board recommends that:**

- **All agency employees should be periodically reminded of their responsibilities and held accountable for compliance with Federal law and agency policy prohibiting sexual harassment in the workplace. It must be clear that sexually harassing behavior by any employee cannot and will not be tolerated.** This can be accomplished in a number of ways, including issuing an agency policy statement signed by the head of the agency detailing the specific prohibited practices and the penalties associated with those practices. This statement should be updated annually or as needed. Agencies should also require each employee to acknowledge that he or she has read and understands the policy.
- **With regard to enforcement of the law and agency policies on sexual harassment, each agency should:**
  - Seek to identify, on its own initiative, possible instances of sexual harassment;
  - Quickly and thoroughly investigate allegations (within 120 days if possible); and
  - Establish and exercise strong sanctions against harassers where the facts warrant.
- **Federal agencies should provide training on sexual harassment to nonsupervisory employees as well as to managers and EEO and personnel officials.** The training should include discussion of the various behaviors that may be construed as sexual harassment and, for



victims, some of the appropriate and more effective responses possible. The training should also stress that individuals need to be sensitive to the ways in which their actions may be interpreted by others. Whether certain behavior constitutes sexual harassment depends not only on the intent behind the behavior but also on the perceptions of those affected.

## Chapter 1 -- Introduction

### The Merit Systems Protection Board's 1981 Report on Sexual Harassment

*Sexual harassment which creates a hostile or offensive environment for members of one sex is every bit the arbitrary barrier to sexual equality at the workplace that racial harassment is to racial equality. Surely, a requirement that a man or woman run a gauntlet of sexual abuse in return for the privilege of being allowed to work and make a living can be as demeaning and disconcerting as the harshest of racial epithets.*[1](#)

In 1979, in response to a congressional request,[2](#) the Merit Systems Protection Board initiated a "first of its kind" study on the nature and extent of sexual harassment in the Federal Government. In March 1981, MSPB released the report, "Sexual Harassment in the Federal Workplace: Is It a Problem?" In 1986 the Board decided to update that study under its legislative mandate to conduct special studies of the civil service and other merit systems in order to determine "whether the public interest in a civil service free of prohibited personnel practices is being adequately protected."[3](#) This report contains the results of that followup study, including relevant comparisons and contrasts with the major findings in the 1981 report.

### The 1988 Report on Sexual Harassment

In updating the original study, the Board addressed many of the same issues raised in the 1981 report. In the present report, we compare the nature and extent of sexual harassment in the Federal Government by using two survey periods—May 1985 through May 1987 and May 1978 through May 1980. Since the data for each study were collected at the end of the 2-year period, throughout this report these data are referred to as our 1987 and 1980 sexual harassment data, respectively.

This report highlights findings on both employee attitudes and employee experiences with unin vited behavior of a sexual nature. In this context, it examines employees' awareness of the remedies available to them and the effectiveness of those remedies. It also details the financial costs to the

Government as well as the personal toll suffered by the victims of sexual harassment.

In addition, this report discusses the Government's efforts to reduce sexual harassment since 1980. For example, we wanted to know: Have agencies continued to issue strong policy statements prohibiting sexual harassment? To what extent have managers, personnel and equal employment officers, and employees received adequate training to prevent sexual harassment? What remedies are available in agencies and are they effective? Finally, the report outlines some of the relevant case law that has developed over the last 7 years as the Board and the courts have put together a growing body of case law to enforce the legal prohibitions against sexual harassment.

### **Sexual Harassment: The Development of an Issue**

***We have had reports in this Committee of several instances where [sexual harassment] is happening and continues to happen \* \* \*. As one looks into it, one finds there is often denial and the ultimate result is that it is whitewashed and nothing happens, except the [victim] gets transferred while the individual in question remains.***[4](#)

Sexual harassment in the Federal workplace had largely been ignored when MSPB began its original research in 1979. At that time there was no clear understanding of what constituted sexual harassment; there was no Governmentwide policy prohibiting it in the workplace; and there was no clear indication that it was an illegal activity under Federal law.

Sexual discrimination, per se, in employment was prohibited under Title VII of the Civil Rights Act of 1964. The Civil Service Reform Act drew on the intent of Title VII, stating that one of the merit principles underlying the management of the Federal personnel system is, "All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion; national origin, sex, marital status, age, or handicapping condition \* \* \*."[5](#) More specifically, the Reform Act made it a prohibited personnel practice to discriminate on the basis of "race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964"[6](#)

The Government has made substantial progress in setting policy prohibiting sexual harassment. On December 12, 1979, the Office of Personnel Management issued a Governmentwide policy statement defining sexual harassment and noting that the practice was considered unacceptable conduct.[7](#) Most Federal agencies immediately followed OPM's lead and issued individual policy

statements. Many agencies also initiated training programs on what constituted sexual harassment and how to prevent it.

On November 10, 1980, the Equal Employment Opportunity Commission issued guidelines declaring that sexual harassment was an unlawful employment practice.<sup>8</sup> With this clarification as a significant contributing factor, a number of Federal and private sector employees have filed complaints against their employers alleging sexual harassment. As a result, significant case law on sexual harassment has been developed over the last 7 years. Especially noteworthy is the U.S. Supreme Court's June 19, 1986, ruling in its first sexual harassment case—*Meritor Savings Bank, FSB v. Vinson*, 106 S. Ct. 2399 (1986). This decision made it clear that sexual harassment can result from the hostile working environment that can be created by offensive behavior directed toward a person because of his or her gender. This and several other recent precedent-setting decisions on sexual harassment have further intensified public interest and concern about the issue. Clearly, the legitimacy of sexual harassment as an important social issue is no longer in question. The issue received a great deal of attention in the early 1980's and is again of major interest.

## **Research Design**

The data in this report are based primarily on employee questionnaires distributed Governmentwide in 1980 and 1987. To obtain trend data, the Board's 1987 questionnaire replicated many of the questions from the 1980 survey. The 1987 survey was sent to approximately 13,000 full-time permanent Federal employees during March 1987, and 8,523 employees responded. The respondents form a representative cross-section of Federal employees. In addition, in December 1986, a formal information request was sent to the heads of the 22 largest Federal departments and agencies to obtain relevant data on their institutional efforts to reduce sexual harassment.<sup>9</sup>

The incidence data on sexual harassment contained in this report are based upon the number of respondents who indicated they had received uninvited and unwanted sexual attention. Thus the method of identifying victims was one of self-identification on the part of the respondents.

It should also be noted that the term "sexual harassment" is defined differently by different people. OPM defined sexual harassment as "deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome." EEOC expanded upon this definition by outlining the conditions under which such conduct would constitute sexual harassment. EEOC also noted that a determination of the legality of alleged sexually harassing conduct would be made from the facts, on a case-by-case basis. Since the EEOC guidelines were issued, the Board and the courts have developed a body of case

law that provides further clarification as to what constitutes sexual harassment within a legal context.

It should not be presumed that each reported incident of uninvited sexual attention meets the current legal definition of sexual harassment. It should also be noted, however, that whether a particular action or behavior constitutes sexual harassment depends not only on the intent of the individual taking the action but also on the perceptions and sensibilities of the individual(s) affected by that behavior. With regard to this latter portion of the sexual harassment issue—i.e., employee perceptions of different forms of uninvited sexual attention—this report provides some useful insights derived directly from the employees themselves.

## **Description of Chapter Contents**

### **Chapter 1: Introduction.**

**Chapter 2: The Nature and Extent of Sexual Harassment in the Federal Workplace.** This chapter presents the Board's findings on the extent of sexual harassment in 1987 compared with 1980 and discusses how employees view various uninvited behaviors of a sexual nature.

**Chapter 3: Employee Responses to Sexual Harassment.** This chapter examines what employees think are the most effective ways of dealing with sexual harassment at work. It also reviews what actions employees have actually taken in response to sexual harassment on the job and discusses the formal actions that can be taken and the effects of those actions.

**Chapter 4: Agency Actions to Reduce Sexual Harassment.** This chapter looks at actions agencies have taken since 1980 in an effort to reduce sexual harassment.

**Chapter 5: The Cost of Sexual Harassment.** In this chapter we examine how much sexual harassment costs the Federal Government. The estimate is derived by calculating the cost of replacing employees who leave their jobs as a result of sexual harassment, of paying sick leave to victims who miss work as a consequence, and of reduced individual and work group productivity.

**Chapter 6: The Legal Imperative to Prevent Sexual Harassment: A Review of Case Law.** This is a summary of the precedent-setting cases on sexual harassment over the last 7 years, including a recent Supreme Court decision.

**Chapter 7: Recommendations.** In this chapter we report our conclusions and offer recommendations to agencies and to Federal employees on how they can attempt to reduce sexual harassment.

## Chapter 1 Endnotes:

1 *Henson v. City of Dundee*, 682 F.2d 897, 902 (11th Cir. 1982).

2 See "Sexual Harassment in the Federal Government," Hearings Before the Subcommittee on Investigations, House Committee on Post Office and Civil Service, 99th Cong., 2d sess. (1979).

3 5 U.S.C. 1205(a)(3).

4 "Treasury, Postal Service, and General Government Appropriations for Fiscal Year 1987," Hearings Before a Subcommittee of the Committee on Appropriations, U.S. House of Representatives, 99th Cong., 2d sess., Statement by Congressman Edward R. Roybal, Chairman (1986)

5 5 U.S.C. 2301(b).

6 5 U.S.C. 2302(b)(1)(A).

7 Office of Personnel Management Memorandum to Heads of Departments and Independent Agencies, "Policy Statement and Definition on Sexual Harassment," Dec. 12, 1979.

8 Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex, 29 C.F.R. 1604.

9 A copy of the 1987 questionnaire is included in this report as appendix 1.

## Chapter 2 -- The Nature and Extent of Sexual Harassment in the Federal Workplace

*It is an unlawful employment practice for an employer \* \* \* to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment, because of such individual's race, color, religion, sex or national origin<sup>1</sup>*

*Sexual harassment deserves special attention among the various forms of discriminatory behaviors. Any sexual harassment carries with it an implied threat, whether it be a job action from a supervisor or withheld cooperation from coworker.*

*A Survey Respondent<sup>2</sup>*

### Summary of Findings

- Compared to just 7 years ago, when given a list of different actions of a sexual nature, more Federal employees agree that most of those actions can constitute sexual harassment.

- In 1987, 42 percent of women and 14 percent of men employed by the Federal Government said they experienced some form of uninvited and unwanted sexual attention; i.e., sexual harassment. This is almost identical to the overall incidence of sexual harassment found in 1980.
- The form of sexual harassment experienced most frequently by respondents is "unwanted sexual teasing, jokes, remarks, or questions." The type of harassment experienced least frequently—"actual or attempted rape or assault"—is also arguably the most severe.
- The incidence rate for sexual harassment varies by agency. For women, the incidence rate ranged from a high of 52 percent at the Department of State to a low of 29 percent at the Department of Health and Human Services. For men, the incidence rate varied from a high of 21 percent at the Veterans Administration to a low of 10 percent at NASA and the Department of Commerce.
- Among the 16 agencies whose employees were surveyed in both 1980 and 1987, several indicated some shifts in the percentage of employees who claimed they had experienced some form of sexual harassment in the most recent 24-month period. While some agencies showed small to moderate increases in the percentages, a few experienced significant decreases.
- Federal workers believe that sexual harassment is no worse in the Federal Government than in the private sector.
- Coworkers are much more likely than supervisors to be the source of sexual harassment.

### **The Percentage of Federal Employees Who Define Various Uninvited Behaviors of a Sexual Nature as Sexual Harassment Increased Between 1980 and 1987**

Sexual harassment is a "term of art" that is given different meanings by different people. Since the Board's 1981 report on sexual harassment, some of the questions and issues have been clarified. For instance, there is no longer any question that sexual harassment can happen to men as well as to women. The EEOC guidelines, which have been upheld in the courts, define sexual harassment as unwelcome sexual behavior that makes submission a condition of decisions affecting an individual's employment or that creates a hostile or offensive working environment. This has become a widely accepted definition.[3](#)

A key point is that sexual attention becomes sexual harassment when (among other things) it is "unwelcome." Thus, whether the perpetrator intentionally or unintentionally sexually harasses another person is not the only issue. How that behavior is received by the person to whom it is directed is also important.

Because of this subjective aspect of sexual harassment, in order to reduce its incidence it is not enough that employees simply know intellectually which behaviors can constitute harassment. Their knowledge must be accompanied by sensitivity to how others might perceive their behavior or be affected by it and should include a willingness to modify that behavior if it is offensive.

***General information would be helpful in pointing out the problems that can arise from thoughtless as well as in tended sexual harassment. People should be made more sensitive to the issues involved.***

#### *A Survey Respondent*

In both the 1980 and 1987 surveys we asked workers to tell us which of certain uninvited behaviors (whether experienced by themselves or by someone else) they considered to be sexual harassment, first when done by a supervisor and second when done by a coworker. The six behaviors, as listed in both the 1980 and the 1987 questionnaires, are:

1. Uninvited letters, telephone calls, or materials of a sexual nature;
2. Uninvited and deliberate touching, leaning over, cornering, or pinching;
3. Uninvited sexually suggestive looks or gestures;
4. Uninvited pressure for sexual favors;
5. Uninvited pressure for dates; and
6. Uninvited sexual teasing, jokes, remarks, or questions.

The responses show that overall, compared to their opinions in 1980, a greater percentage of Federal employees in 1987 would definitely or probably consider these behaviors to be sexual harassment. (See figs. 2-1 through 2-4.)

**Figure 2-1 UNINVITED BEHAVIOR BY A SUPERVISOR**  
**Females' Definition of Sexual Harassment When Supervisor is Offender--Percentage of Female Respondents Who Consider the Indicated Behavior to be Sexual Harassment**

	1987	1980
Pressure for Sexual Favors	99%	91%
Deliberate Touching	95%	91%
Letters and Calls	90%	93%
Pressure for Dates	87%	77%
Suggestive Looks	81%	72%
Sexual Remarks	72%	62%

**Figure 2-2 UNINVITED BEHAVIOR BY A SUPERVISOR**  
**Males' Definition of Sexual Harassment When Supervisor is Offender--Percentage of**



Male Respondents Who Consider the Indicated Behavior to be Sexual Harassment		
	1987	1980
Pressure for Sexual Favors	95%	84%
Deliberate Touching	89%	83%
Letters and Calls	76%	87%
Pressure for Dates	81%	76%
Suggestive Looks	68%	59%
Sexual Remarks	58%	53%

Figure 2-3 UNINVITED BEHAVIOR BY A COWORKER Females' Definition of Sexual Harassment When Coworker is Offender--Percentage of Female Respondents Who Consider the Indicated Behavior to be Sexual Harassment		
	1987	1980
Pressure for Sexual Favors	98%	81%
Deliberate Touching	92%	84%
Letters and Calls	84%	87%
Pressure for Dates	76%	65%
Suggestive Looks	76%	64%
Sexual Remarks	64%	54%

Figure 2-4 UNINVITED BEHAVIOR BY A COWORKER Males' Definition of Sexual Harassment When Coworker is Offender--Percentage of Male Respondents Who Consider the Indicated Behavior to be Sexual Harassment		
	1987	1980
Pressure for Sexual Favors	90%	65%
Deliberate Touching	82%	69%
Letters and Calls	67%	76%
Pressure for Dates	66%	59%
Suggestive Looks	60%	47%
Sexual Remarks	47%	42%

In both years, the percentage of Federal employees who considered the listed uninvited behaviors to be sexual harassment varied by behavior. The 1987 data show that Federal workers solidly believe that four types of behavior—uninvited pressure for sexual favors; pressure for dates; deliberate touching, leaning over, cornering, or pinching; and uninvited letters, telephone calls, or materials of a sexual nature—constitute sexual harassment. There is substantially less agreement among Federal employees about whether the remaining behaviors—

uninvited sexually suggestive looks or gestures and uninvited sexual teasing, jokes, remarks, or questions—also constitute sexual harassment.

***Supervisors should not be allowed to let this kind of behavior exist among those who work under them. For that matter, supervisors should not be allowed to get away with it.***

*A Survey Respondent*

## **Employees Hold Supervisors to a Higher Standard**

As we noted, employees increasingly consider most behaviors listed in the survey to be sexual harassment, no matter what position the potential harasser holds. However, data show that some employees are more likely to view certain actions as sexual harassment if taken by a supervisor but not if taken by a coworker. (See figs. 2-1 through 2-4.)

***Even though uninvited sexual harassment from your supervisor or coworker would both be considered sexual harassment, you would be able to take actions to stop the harassment from a coworker without fear of reprisal. On the other hand, you would be reluctant to report your supervisor because of his position and your fear of what might happen to you on the job.***

*A Survey Respondent*

Looking at some of the specific behaviors, we find virtual consensus among Federal employees (99 percent for women and 95 percent for men) that uninvited pressure for sexual favors by a supervisor is sexual harassment. It is the behavior that employees most often agreed is sexual harassment, even more so than in 1980. The next highest percentage (95 percent women, 89 percent men) believed that sexual harassment occurs when a supervisor deliberately touches, leans over, corners, or pinches another employee—and again this represents an increase from the 1980 percentage. (See figs. 2-1 and 2-2.)

The 1987 data also show an increase from 1980 in the number of employees who believe that uninvited pressure for dates from a supervisor is sexual harassment. For example, in 1980, 77 percent of women and 76 percent of men thought that when a supervisor pressures another employee for a date it is harassment. In 1987, 87 percent of women and 81 percent of men believed this behavior on the part of a supervisor is sexual harassment.

The percentage of employees who believe that the listed forms of behavior are sexual harassment when initiated by a coworker also increased for all but one of the listed behaviors—uninvited letters, calls, or materials of a sexual nature. (See

figs. 2-3 and 2-4.) In 1980, 65 percent of women and 59 percent of men believed that uninvited pressure for dates by a coworker is sexual harassment. By 1987, those percentages had increased to 76 percent for women and 66 percent for men.

## **Employees Do Not Always Agree on What Behaviors Constitute Sexual Harassment**

***I think information on what is considered sexual harassment needs to be publicly provided. I feel there is a gray area that needs to be clarified—for example, unwanted looks and remarks.***

*A Survey Respondent*

The increases found in the percentage of employees who believe certain uninvited behaviors to be sexual harassment may have resulted, in part, from agency training on sexual harassment as well as increased public awareness about actions that may constitute this prohibited behavior. However, as indicated by the comparatively lower percentage of employees who regard unwanted sexual remarks, jokes, or teasing from a coworker to be sexual harassment (see figs. 2-1 through 2-4), individuals disagree considerably as to whether some behaviors constitute sexual harassment. In part, this may stem from the fact that whether a certain action or behavior is sexual harassment depends not only on the intent behind the action or behavior but also on the perceptions of those affected.

When sexually harassing behavior is pervasive, these kinds of activities—the sexual jokes, the insulting sexual remarks or gestures—may contribute to a hostile environment in the workplace. The EEOC guidelines on sexual harassment make it clear that a hostile work environment resulting from sexual harassment is unlawful and this interpretation has been upheld by the Supreme Court. Supervisors who know (or should have known) about the sexual harassment of those working for them and yet do not take immediate action to stop it can be held accountable. So too, of course, can be the employee or employees responsible for creating the offensive or hostile environment.

***I become very tired of hearing how pretty you are, how sexy you look, I love your \* \* \*, and on and on. You sometimes don't even want to look nice for yourself because it causes unwanted comments.***

*A Survey Respondent*

## **Sexual Harassment in the Federal Government Remains Widespread**

***The possibility for more sexual activity at work follows from the growth of women's involvement in the labor force. Over 50 percent of adult women are currently in the labor force, up from 32 percent in 1960 \* \* 4***

MSPB questionnaires in both 1980 and 1987 asked Federal workers if they had received, during the previous 24 months, uninvited and unwanted sexual attention on the job. The forms of uninvited behavior listed in the survey are the following:

1. Actual or attempted rape or sexual assault;
2. Unwanted pressure for sexual favors;
3. Unwanted deliberate touching, leaning over, cornering, or pinching;
4. Unwanted sexual looks or gestures;
5. Unwanted letters, telephone calls, or materials of a sexual nature;
6. Unwanted pressure for dates; and
7. Unwanted sexual teasing, jokes, remarks, or questions.

Our 1987 data indicate that sexual harassment in the form of one or more of the listed behaviors remains widespread in the Federal workplace. Overall, in 1987 approximately 42 percent of women and 14 percent of men claimed they experienced one or more instances of uninvited and unwanted sexual attention. That is virtually the same percentage of Federal workers who said in 1980 that they had been similarly harassed--42 percent of women and 15 percent of men.

***The harassment I referred to consisted of tasteless sexist jokes by a supervisor.***

#### *A Survey Respondent*

The kinds of sexual harassment most often experienced by both men and women are sexual teasing, jokes, remarks, or questions; sexually suggestive looks or gestures; and touching, leaning over, cornering, or pinching (see figs. 2-5 and 2-6). Thirty-five percent of all female employees and 12 percent of all male employees reported experiencing uninvited sexual teasing, jokes, remarks, or questions. Twenty-eight percent of women and 9 percent of men had experienced uninvited sexual looks or gestures; 26 percent of women and 8 percent of men had been subjected to unwelcome touching, leaning over, cornering, or pinching.

As shown in figures 2-5 and 2-6, varying percentages of Federal employees have experienced each of the listed forms of sexual harassment, up to and including attempted or actual rape or assault. Even though the percentage is small for this last and most severe form of harassment, when the data are extrapolated to the

entire work force, they show over a 2-year period approximately 6,281 women and 3,347 men experienced actual or attempted rape or sexual assault.

**Figure 2-5 FORMS OF SEXUAL HARASSMENT EXPERIENCED BY WOMEN**  
Percentage of All Female Respondents Who Claimed They Experienced This Form of Sexual Harassment

	1987	1980
Sexual Remarks	35%	33%
Suggestive Looks	28%	28%
Pressure for Dates	15%	26%
Deliberate Touching	26%	15%
Pressure for Sexual Favors	9%	9%
Letters and Calls	12%	9%
Actual or Attempted Rape or Assault	0.8%	1%

**Figure 2-6 FORMS OF SEXUAL HARASSMENT EXPERIENCED BY MEN**  
Percentage of All Male Respondents Who Claimed They Experienced This Form of Sexual Harassment

	1987	1980
Sexual Remarks	12%	10%
Suggestive Looks	9%	8%
Pressure for Dates	4%	7%
Deliberate Touching	8%	3%
Pressure for Sexual Favors	3%	2%
Letters and Calls	4%	3%
Actual or Attempted Rape or Assault	0.3%	0.3%

*The rape occurred while I was on travel. I called my husband (who was not my husband at the time) who came and got me. He confronted my assailant, punched him, and told him if he ever looked at me again we'd make sure his career and his homelife would be ruined. After that he pretty much left me alone.*

*A Survey Respondent*

### **Employees Perceive Sexual Harassment as Slightly Less of a Problem Now Than 5 Years Ago**

Approximately 21 percent of the respondents to the 1987 survey said they believed sexual harassment in the Federal Government is either less or much less of a problem today compared to 5 years ago. Only 10 percent said they believed it is more or much more of a problem. Another 21 percent thought the extent of the problem has stayed the same. Approximately 41 percent expressed no

opinion and 8 percent thought sexual harassment was never a problem in the first place.

### Incidence Rates Vary by Agency

The data in both 1980 and 1987 show that incidence rates vary considerably from agency to agency. (See tables 2-1 and 2-2.) In 1987, for women the incidence rate ranged from a high of 52 percent at the Department of State to a low of 29 percent at the Department of Health and Human Services. For men, the incidence rate ranged from a high of 21 percent at the Veterans Administration to a low of 10 percent at NASA and the Department of Commerce. In a few cases (e.g., the Departments of Labor and Transportation) among the 16 agencies that were surveyed in both 1980 and 1987, there were significant decreases in the percentage of female employees claiming they were harassed.

**Table 2-1 -- Incidence Rate of Sexual Harassment of Women in Each Agency**

AGENCY <sup>1</sup>	FEMALE VICTIMS	
	1980	1987
1. State (incl. Agency for International Development and U.S. Information Agency <sup>2</sup> )	-	52%
2. Veterans Administration	46%	49%
3. Navy	44%	47%
4. Justice	53%	46%
5. Air Force	46%	45%
6. Army	41%	44%
7. NASA	-	43%
8. Education	-	42%
9. Governmentwide Average	42%	42%
10. Treasury	37%	41%
11. Housing and Urban Development	47%	41%
12. All Other Agencies	39%	39%
13. Energy	38%	38%
14. Labor	56%	37%
15. Small Business Administration <sup>3</sup>	-	37%
16. General Services Administration	35%	36%
17. Transportation	55%	36%
18. Agriculture	31%	36%
19. All Other Defense Agencies	50%	35%
20. Commerce	40%	33%
21. Office of Personnel Management	-	33%
22. Environmental Protection Agency	-	33%

23. Interior	41%	32%
24. Health and Human Services	-	29%

1 "Agency" refers to the major organization where the respondent worked. Question 46 contained responses for the 21 largest departments and agencies, as well as a category of "other." The category of "other DOD" includes such agencies as the Office of the Secretary of Defense and the Defense Mapping Agency. The Department of Health, Education and Welfare (HEW) was listed in the 1980 survey. After the original survey was developed, HEW was abolished and the Department of Health and Human Services and the Department of Education were formed.

2 The U.S. Information Agency was referred to as the International Communications Agency (ICA) from April 1978 to August 1982.

3 In 1980, the Board did not collect data from the State Department, the Small Business Administration, the National Aeronautics and Space Administration (NASA), or the Office of Personnel Management.

**Table 2-2 -- Incidence Rate of Sexual Harassment of Men in Each Agency**

AGENCY <sup>1</sup>	MALE VICTIMS	
	1980	1987
1. Veterans Administration	22%	21%
2. Justice	16%	19%
3. Treasury	14%	19%
4. Small Business Administration <sup>2</sup>	-	19%
5. All Other Defense Agencies	13%	18%
6. Education	-	18%
7. General Services Administration	16%	17%
8. Air Force	12%	16%
9. Housing and Urban Development	16%	16%
10. Environmental Protection Agency	-	15%
11. Health and Human Services	-	15%
12. Energy	14%	14%
13. Navy	14%	14%
14. Governmentwide Average	15%	14%
15. Agriculture	12%	13%
16. State (incl. Agency for International Development and U.S. Information Agency <sup>3</sup> )	-	12%
17. Interior	14%	12%
18. All Other Agencies	10%	12%
19. Army	16%	11%
20. Labor	10%	11%
21. Transportation	9%	11%
22. Office of Personnel Management	-	11%
23. Commerce	12%	10%
24. NASA	-	10%

1 "Agency" refers to the major organization where the respondent worked. Question 46 contained responses for the 21 largest departments and agencies, as well as a category of "other." The category of "other DOD" includes such agencies as the Office of the Secretary of Defense and the Defense Mapping Agency. The Department of Health, Education and Welfare (HEW) was listed in the 1980 survey. After the



original survey was developed, HEW was abolished and the Department of Health and Human Services and the Department of Education were formed.

2 In 1980, the Board did not collect data from the State Department, the Small Business Administration, the National Aeronautics and Space Administration (NASA), or the Office of Personnel Management.

3 The U.S. Information Agency was referred to as the International Communication Agency (ICA) from April 1978 to August 1982.

## **Some Individuals Are More Likely Than Others To Be Victims of Sexual Harassment**

While both women and men are sexually harassed, women are still far more likely than men to be victims. In 1981 we reported that about twice as many men as women held Federal jobs and two out of three victims were women. Since then, the total Federal work force has grown, with the number of federally employed women increasing by at least 100,000.[5](#)

What this means, of course, is that while the overall percentage of women in the Federal Government who claimed they were sexually harassed remained relatively constant during the 7-year period covered by this study, the actual number of women experiencing harassment increased.

***In my 20 years of Government employment, I have found the degree of sexual harassment to be basic to the blue-collar area (more crude remarks/advances). It is more subtle in the white-collar area; however, the effects are more devastating.***

*A Survey Respondent*

Although victims of sexual harassment can be found in all occupations and all organizations, a profile of the typical sexual harassment victim based on our 1987 data shows that certain organizational, occupational, and personal characteristics increase the chances that one will become a victim. Based on data from respondents, the survey findings reveal that:

### **Women** more likely to be at risk

1. Have a nontraditional job;
2. Are working in a predominantly male environment or have a male as their immediate supervisor;
3. Have attended college and some graduate school;
4. Are single or divorced and between the ages of 20 to 44; or
5. Have been with the Federal Government for fewer than 15 years.

### **Men** more likely to be at risk

1. Are divorced or separated and are 20 to 44;

2. Work in office/clerical or trainee positions; or
3. Are working in a predominantly female work group or have a female supervisor.

***The more subtle types of sexual harassment are a hand on the shoulder, if not wanted, or dirty jokes in the hall or lunchroom, or innuendos and looks.***

### *A Survey Respondent*

**Victims are most often harassed by coworkers.** Both male and female victims reported most often that they were harassed by coworkers or other employees, rather than by supervisors. (See fig. 2-7.) Sixty-nine percent of female and 77 percent of male victims indicated in 1987 that they were harassed by either a coworker or another Federal employee without supervisory authority over them. Twenty-nine percent of women and 19 percent of men indicated they were harassed by either their supervisor or a higher level supervisor. Note: Because some victims were harassed by more than one person, these aggregated percentages cannot be obtained by adding the separate percentages shown on figure 2-7.

**Figure 2-7 Organizational Level of Harasser in 1987 -- Source of Harassment --  
Percentage of victims, by Sex, Who Claim that the Source of their Harassment was in the  
Organizational Level Shown**

	Female	Male
Immediate Supervisor	12%	12%
Higher Level Supervisor s	19%	10%
Co-Worker	41%	47%
Subordinate	2%	10%
Other Employees	37%	40%
Other or Unknown	10%	10%

**Harassers are usually the opposite sex of their victim.** Although in 1987 we did not repeat the 1980 question on sex of harassers, based on the Board's 1980 findings, the harasser of a woman is usually a man and the harasser of a man is usually a woman. As reported in the 1980 study, 95 percent of female victims were harassed by a man--79 percent of the time by a lone man and 16 percent by two or more men.

***Be aware that claims of sexual harassment are not limited to women. One recent case received nationwide coverage. A jury awarded \$196,***

***500 in damages to a man who claimed his supervisor demoted him because he refused her sexual advances.***[6](#)

Sixty percent of male victims were harassed by a woman acting alone and 12 percent, by two or more women. Twenty-two percent of male victims, however, reported that they were harassed by one or more men. In comparison, only 3 percent of women reported that they were harassed by another woman.

### **Sexual Harassment Occurs Repeatedly and May Last Several Weeks or More**

In both the 1980 and the 1987 surveys, employees were asked how often they experienced sexually harassing attention. Their responses made it clear that harassment is not a one-time-only or isolated incident.

For example, in 1987, 75 percent of victims who experienced sexual teasing or jokes said they experienced this behavior more than once. Some 54 percent of those who had been pressured for sexual favors said they had been pressured more than once. For the most part, however, victims of actual or attempted rape or sexual assault said it was a one-time experience.

Survey respondents also indicated that some forms of sexual incidents persist over time and that most go on for a week or more—and some for more than 6 months.

### **Sexual Harassment Is Seen as No Worse in the Federal Workplace Than in the Non-Federal Sector by Those Who Have Worked in Both**

The 1987 data show that among those Federal employees who have also worked in non-Federal jobs, 42 percent believe there is about the same amount of unwanted sexual attention in non-Federal jobs as there is in Federal jobs. Twenty percent of these employees said there is actually more harassment in non-Federal jobs while 8 percent think there is less. Thirty percent of these employees did not offer an opinion.

## **Chapter 2 Endnotes:**

1 The Civil Rights Act of 1964 (42 U.S.C. 2000e2(a)(1)).

2 In the 1987 survey questionnaire, space was provided for respondents to volunteer written comments. Over 1,500 respondents provided comments. Throughout this report, selected excerpts from those comments are provided where they illustrate employee opinions on a given topic.

3 See "Sexual Harassment: Employer Policies and Problems," PPF Survey No. 144, the Bureau of National Affairs, Inc., June 1987, p. 4

4 Barbara Gutek, "Sex and the Workplace," Jossey-Bass Me., Publishers, 1985, p. 3. The

figures cited are 1983 Department of Labor data.

5 Work force data from the Office of Personnel Management, "Federal Work Force Statistics: Occupations of Federal White-Collar and Blue-Collar Workers," Oct. 31, 1985. The next report in this series will be published in late 1988.

6 "Protecting Yourself from Sexual Harassment On-the-Job," BusinessWeek Careers, September 1987, p. 77.

## Chapter 3 -- Employee Responses to Sexual Harassment

*If I had not taken a course, I would not have known that "touching" could be illegal. With this knowledge of my rights, I felt I could stop the harassment by threatening to file a complaint. After I took this action, the harassment stopped and he avoided me like the plague.*

*A Survey Respondent*

### Summary of Findings

- Most victims use informal remedies to resolve sexual harassment on the job and they generally see this approach as effective. For both sexes, simply asking or telling the offender to stop "made things better" most frequently. Threatening to tell others or telling others was the second most effective action for women, while avoiding the person(s) was the second most effective action for men.
- The great majority of Federal workers are aware that formal remedies are available to them. These remedies include filing a grievance or adverse action appeal, filing a discrimination complaint, or requesting an investigation by their agencies.
- Nonetheless, formal remedies are rarely used to deal with sexual harassment. Only 5 percent of both female and male victims responding in 1987 said they took formal action to deal with the harassment, and most of these employees viewed the actions they took as nonproductive.

### Introduction

There are numerous options available to victims of sexual harassment for dealing with unwanted behavior. These actions range from avoiding the offender or telling the offender to stop, to , formal measures such as filing a discrimination complaint or lawsuit. How a victim deals with the problem depends on a number of factors. They include the victim's awareness of available formal remedies and expectations about the effectiveness of these as opposed to other informal actions. This chapter examines victims' experiences with selected remedies and their relative effectiveness.

## Victims Often Take Informal Actions

***I informed the individual as to how I felt about his behavior and why I felt he should change his behavior if we were to remain friends.***

*A Survey Respondent*

Our 1981 report recommended that agencies emphasize the use of informal means of resolving claims of sexual harassment unless the harassment is of an extremely serious nature. The 1987 data confirm that victims are more likely to take informal actions—actions largely short of "going on the record"—in response to sexual harassment. Most victims seek remedies that do not involve filing grievances, discrimination complaints, or appeals, or asking for an investigation. In the 1980 and 1987 surveys, the Board asked victims whether they took any of the following actions in response to unwanted sexual attention:

- Ignored the behavior or did nothing;
- Avoided the person(s);
- Asked/told the person(s) to stop;
- Threatened to tell or told others;
- Reported the behavior to the supervisor or other officials;
- Made a joke of the behavior;
- Went along with the behavior;
- Transferred, disciplined, or gave a poor performance rating to the person; and
- Did something other than the actions listed above.

Some of the actions listed above (e.g., "Ignored the behavior or did nothing") can be considered passive behaviors. A sizable portion of victims in 1980 and again in 1987, however, indicated they considered these actions appropriate and effective responses to sexual harassment.

As figure 3-1 shows, the four most prevalent responses for both male and female victims were ignoring the behavior or doing nothing (52 percent women, 42 percent men), avoiding the offender (43 percent women, 31 percent men), asking/telling the offender to stop (44 percent women, 25 percent men), and making a joke of the harassing behavior (20 percent, both women and men). Women used six of the nine approaches more often than men did, including the more assertive and "communicative" approaches of confronting the offender, threatening to tell or telling others, and reporting the behavior to their supervisors or other officials. Some respondents (10 percent women, 6 percent men) said they had taken an action other than one listed in the question, and they added written comments to explain that action. Our review of those

comments showed that most victims did, in fact, take one of the actions listed in the question. Most of the victims who chose "other" then described in detail what they told their supervisor, or how they confronted the harasser.

**Figure 3-1 Actions Taken by Female and Male Victims -- Percentage of Victims, by Sex, Who Said they Took the Indicated Action(s) in Response to Unwanted Sexual Attention**

Action	Male	Female
<b>I Ignored The Behavior Or Did Nothing</b>	42%	52%
<b>I Avoided The Person(s)</b>	31%	43%
<b>I Asked/Told The Person To Stop</b>	25%	44%
<b>I Made A Joke Of The Behavior</b>	20%	20%
<b>I Threatened To Tell Or Told Others</b>	8%	14%
<b>I Reported The Behavior To The Supervisor Or Other Officials</b>	7%	15%
<b>I Went Along With The Behavior</b>	7%	4%
<b>I Transferred, Disciplined, Or Gave A Poor Performance Rating To The Person</b>	3%	2%
<b>I Did Something Other Than The Actions Listed Above</b>	6%	10%

NOTE: A Number of Respondents Took More Than One Action.

### Victims Report That Certain Remedies Are More Effective Than Others

*I brought the problem to the attention of a discrimination official [EEO counselor]. No formal action was necessary because the agency took action on an informal basis.*

*A Survey Respondent*

In many cases, informal actions were effective in eliminating or reducing the harassment. As can be seen from figure 3-2, simply asking or telling the offender to stop produces the most effective results for both female and male victims. Among the victims who took this action, 61 percent of the women and 66 percent of the men said it "made things better." Although most women (77 percent) indicated that an "other" action they took was the most effective, the majority of their written comments simply described an informal action (e.g., telling their supervisor or confronting the harasser) in greater detail.

**Figure 3-2 Effectiveness of Actions Taken by Victims -- Percentage of Victims, by Sex, Who Took the Indicated Action in Response to Unwanted Sexual Attention and Who Said it "Made Things Better"**

Action	Male	Female
<b>I Asked/Told the Person to Stop</b>	66%	61%
<b>I Avoided The Person(s)</b>	55%	45%
<b>I Threatened To Tell Or Told Others</b>	24%	55%
<b>I Reported The Behavior To The Supervisor Or Other Officials</b>	35%	49%
<b>I Transferred, Disciplined, Or Gave A Poor Performance Rating To The Person</b>	22%	48%

I Made A Joke Of The Behavior	38%	40%
I Ignored the Behavior or Did Nothing	37%	29%
I Went Along With The Behavior	19%	16%
I Did Something Other Than The Actions Listed Above	39%	77%

**NOTE: A Number of Respondents Took More Than One Action.**

A somewhat related action—threatening to tell or telling others—reportedly made things better for 55 percent of the female victims but only 24 percent of the male victims. More female victims also revealed that reporting the behavior to a supervisor or other official was often an effective action to take (49 percent women, 35 percent men). However, male victims reported somewhat greater success with avoiding the person(s) than female victims did (55 percent versus 45 percent, respectively).

It is important to note that many victims apparently take the "course of least resistance" (e.g., ignoring the behavior or doing nothing) when dealing with sexual harassment.

However, victims also reported that using these less confrontational methods did not usually result in a better work situation. Only 40 percent of the female victims and 38 percent of the male victims reported that making a joke of the behavior made things better. In like manner, among all victims, only 29 percent of the women and 37 percent of the men said that ignoring the behavior or doing nothing about it was helpful. Going along with the behavior was viewed as the least effective action to take.

In conclusion, victims found that taking informal but direct action to confront the harasser—telling the person to stop—was the most effective way to stop sexual harassment. Forty-four percent of the female victims tried this approach while only 25 percent of the male victims were so direct.

***I told the person the next time he laid a hand on me I would break his arm. He has not touched me since.***

*A Survey Respondent*

## **Employees Are Generally Aware of Most Formal Remedies**

Much public attention has been given to sexual harassment court cases that began as formal charges in the governmental or private sectors. To test employee knowledge of the formal actions that victims of sexual harassment could take, the survey questionnaire asked respondents whether any of the following formal actions were available to victims within their agencies:

- Requesting an investigation by [their] agencies;



- Requesting an investigation by an outside agency;
- Filing a grievance or adverse action appeal;
- Filing a discrimination complaint; and
- Filing a complaint through special channels set up for sexual harassment complaints.

The great majority of employees knew that victims of sexual harassment in their agencies could use most of the remedies listed above. (See fig. 3-3.)

Approximately 85 percent of victims and nonvictims realized that filing a grievance, an adverse action appeal, and a discrimination complaint were available options. Nearly 75 percent of employees knew they could also request an investigation by their agencies. Less than 30 percent knew that they could request an investigation by an outside agency.

**Figure 3-3 Respondents' Awareness of the Availability of Formal Actions -- Percentage of All Victims and Non-victims who Believe the Indicated Action could be taken in Their Agency by a Victim of Sexual Harassment**

Possible Action	Victims	Non-Victims
Filing a Grievance or Adverse Action Appeal	89%	85%
Filing a Discrimination Complaint	86%	85%
Requesting an Investigation by my Agency	73%	75%
Requesting an Investigation by an Outside Agency	25%	29%

A Fifth Possible Action, i.e., "Filing a Complaint Through Special Channels Set Up For Sexual Harassment Complaints" is Not Included in This Report's Analysis Since Few Such Channels Were Found to Actually Exist.

### Few Victims Take Formal Actions

*I am convinced that most people would rather try to deal with sexual harassment in a less formal way first, but many are not skilled to do this. Agencies need to offer advice on how to deal with sexual harassment in ways short of the protracted, formal, and often embarrassing agency policy.*

*A Survey Respondent*

Despite general awareness of the availability of at least three of the four formal actions, only 5 percent of both male and female victims chose to take any formal action. In fact, our responses show that victims were just as likely to change jobs as a result of sexual harassment as they were to take formal action. Among the small percentage of employees who said they did take formal action, the action most frequently taken (by 51 percent of the employees) was requesting an investigation by the employing agency.

The low percentages for taking formal actions obtained through our survey are confirmed by a 1985 report released by the Equal Employment Opportunity Commission.<sup>1</sup> The Commission notes that in FY 1985, only 436 formal EEO complaints on sexual harassment were filed.

Reporting that 5 percent of female victims took formal actions may actually be an overstatement. This is because 55 percent of women who answered the question on this issue indicated they took another action that they considered formal but that was not one of the four actions included in that question. A review of the respondents' written comments showed that many victims appear to have a broader view of what constitutes a "formal" action. Many victims construe telling their supervisor or another official about the harassment as a formal action.

### **Victims Do Not Believe Benefits of Formal Action Outweigh Possible Consequences**

To learn why victims may be reluctant to pursue formal procedures, the survey asked for their opinions of the potential effectiveness of four different formal actions. As figure 3-4 shows, those who believed the various actions would be "somewhat effective" ranged from 35 to 63 percent, depending on the action. These expectations alone, then, cannot fully explain victims' reluctance to pursue formal actions.

**Figure 3-4 Victims' Expectations Concerning Effectiveness Of Formal Actions -- Percentage Of Victims Who Believe The Indicated Action Would Be Very Or Somewhat Effective In Helping Victims Of Sexual Harassment**

Action	Percent of Victims
Filing a Grievance or Adverse Action Appeal	63%
Filing a Discrimination Complaint	57%
Requesting an Investigation by my Agency	51%
Requesting an Investigation by an Outside Agency	35%

Victims who did not take formal action in response to sexual harassment were asked to select one or more reasons (from a list of possible reasons) for not doing so. As shown in figure 3-5, the responses of both female and male victims were very similar. The primary reason for not taking formal action is that many victims saw no need to report the offending behavior. This may be because one or more informal actions that they took resolved or had the potential to resolve the problem. Another possibility is that some victims simply resigned themselves to tolerating behavior that they may have viewed as bothersome.

**Figure 3-5 Reasons Given By Male And Female Victims For Not Taking Formal Actions -- Percentage Of All Victims, By Sex, Who Did Not Take Any Formal Action In Response To Unwanted Sexual Attention**

Action	Male	Female
I Had No Need To Report It	42%	44%
I Thought It Would Make My Work Situation Unpleasant	23%	30%
I Did Not Think Anything Could Be Done	17%	23%
I Did Not Want To Hurt The Person Who Bothered Me	20%	16%
I Thought That It Would Be Held Against Me Or That I Would Be Blamed	13%	17%
I Was Too Embarrassed	9%	14%
I Did Not Know What Actions To Take	5%	10%

Also, some of these employees undoubtedly wanted to avoid certain consequences they felt might result from formal action. For example, some victims said that taking formal action would make the work situation unpleasant; others believed nothing would be done as a result of initiating formal action—so why bother.

### **Formal Actions Generally Are Not Viewed as Effective**

Unfortunately, because so few victims actually initiated formal action, only very limited data are available concerning the results of those actions. While not sufficient for detailed (e.g., agency specific) analysis, the data that are available, including the written comments from the respondents, generally indicate that the victims who did take formal action did not consider the action to be very effective. In a few cases, victims who took formal action said that their agencies took action against them as a result. Most often, however, victims said that agency management just "did nothing" as a result of the formal action or they "don't know whether management did anything." Only among those victims who said they requested an investigation by an outside agency was there a consensus that taking the action "made things better."

The generally negative attitudes expressed by victims relative to formal complaints may, in part, be due to the fact that the process of reaching a conclusion on a formal action may be time consuming. This is discussed in chapter 4. In addition, in some cases, agency management may have taken some type of corrective action in response to a formal complaint but may be reluctant to make that information public for various reasons (e.g., violation of the privacy act).

In conclusion, the results presented in this chapter suggest that victims of sexual harassment overwhelmingly tend to pursue informal rather than formal remedies. In addition, informal actions are generally viewed as more effective

than formal ones. The circumstances surrounding any one case of sexual harassment dictate the type of action likely to be most effective. In some cases, of course, victims of sexual harassment may need to pursue both informal and formal actions to reach a resolution.

## Chapter 3 Endnotes:

1 "Report on Pre-Complaint Counseling and Complaint Processing by Federal Agencies for Fiscal Year 1985," Equal Employment Opportunity Commission (undated), p. 14.

## Chapter 4 -- Agency Action to Reduce Sexual Harassment

*Supervisors, managers, and peers in many instances are not fully aware that sexual harassment is being demonstrated. It must be brought out two or three times a year and aired in department-level and staff meetings, by inhouse and outside sources, and should include statistics, graphs, and film strips so everyone can recognize the seriousness of the matter.*

*A Survey Respondent*

### Summary of Findings

This chapter discusses actions taken by the 22 largest Federal agencies<sup>1</sup> during FY 1980 through FY 1986 to reduce the incidence and impact of sexual harassment. The data are from these agencies' written responses to a series of questions the Merit Systems Protection Board sent to each agency as part of this study. Since detailed records are not maintained (nor are they required to be maintained) on many of the questions asked (e.g., training specifically on sexual harassment), many of the agency responses are "best estimates." The major findings include the following:

- There is no clear correlation between any agency's estimates of its training efforts on the issue of sexual harassment and the reported incidence of harassment in that agency. It is unlikely, in any event, that training alone is an adequate answer to the complex problem of sexual harassment but more carefully tailored training may be at least part of the answer.
- According to each agency's own estimates, on the average, a Federal employee received a total of 1 to 2 hours of training on sexual harassment during the 7-year period from FY 1980 through FY 1986. This training was

not evenly distributed among all employees, but managers and personnel and EEO officials were more likely to receive it than nonsupervisory employees.

- Agencies estimated that during FY 1980 through FY 1985, an average of 482 days elapsed from the date a formal complaint of sexual harassment was filed to the date the complaint was disposed of. The 22 largest departments and agencies also reported that 1,008 formal complaints of alleged sexual harassment were filed during FY 1980 through FY 1986.
- All agencies have issued policy statements or other written guidance on sexual harassment although the recency and content of those issuances vary widely.
- Through a variety of methods, agencies believe they have communicated their official policies prohibiting sexual harassment to the vast majority of their employees and that employees are generally aware of the related formal complaint procedures. Employee responses to the 1987 MSPB questionnaire support that belief.

### **Agency Training Is Minimal**

***My agency has mandatory training for supervisors every year, but employees can only get trained if their supervisors ask for special training. We need to ensure that all employees from department head to laborer receive the same type of training on sexual harassment. I have been with the civil service for approximately 5 years and have yet to receive training in this area.***

*A Survey Respondent*

Agencies were asked if they had developed training programs on the problem of sexual harassment. Although each agency reported that it had provided training on sexual harassment, that training has generally been minimal; has focused more on managers and personnel and EEO officials than on nonsupervisors; and in a few agencies has been given less emphasis in recent years compared to 4 to 7 years ago. These points are discussed further below.

**Training length.** According to agency estimates, during FY 1980 through FY 1986, the average employee spent a total of 1 hour or less in sexual harassment training in 6 of the 22 agencies, 1 to 2 hours in 12 agencies, and 3 to 4 hours in another 2 agencies. In only two agencies—the Departments of the Interior and the Navy—was it estimated that employees received at least 4 to 8 hours of training (see fig. 4-1).

**Training audience.** Our data show that the most likely perpetrators as well as victims of harassment are nonsupervisory personnel. While agencies did provide some training to nonsupervisory employees, most estimate that a much greater proportion of managers and personnel and EEO officials than nonsupervisors received training during FY 1980 through FY 1986. Exceptions include NASA and the Departments of the Air Force and Labor; each of these agencies estimates it trained almost as many nonsupervisors as managers. Eight agencies simply did not keep records on the number of nonsupervisors given sexual harassment training during the period.

***I know that our management staff has recently received training in sexual harassment. I cannot recall that employees have ever received the same training. I suggest that this training be given to everyone.***

*A Survey Respondent*

**Varied emphasis on training.** Responses indicated that a few agencies appear to have emphasized sexual harassment training during FY 1980 through FY 1983 more than in the years following. As an example, the Department of Labor estimated that it trained 50 percent of its managers and nonsupervisors and 60 to 80 percent, respectively, of its personnel and EEO officials in both FY 1980 and FY 1981. In contrast, based on Department of Labor estimates for FY 1984 through FY 1986, it annually trained only 2 percent of its nonsupervisors, 3 percent of its supervisors, and 10 percent of its personnel and EEO officials.

Similarly, the Department of the Navy estimated that it trained 86 percent of its managers, 80 percent of its personnel and EEO officials, and 40 percent of its nonsupervisors in FY 1982, compared with 8 percent, 10 percent, and 5 percent, respectively, in FY 1986.

Other agencies (e.g., the Departments of the Air Force, State, and the Interior) estimated that compared to FY 1980 and FY 1981, they trained as large or a larger percentage of their work force in FY 1985 and FY 1986. The Department of State, in particular, estimated that in both FY 1985 and FY 1986, 75 percent of its managers and 100 percent of its personnel and EEO officials received training on sexual harassment and that 42 percent and 60 percent of its nonsupervisory employees also received training in FY 1985 and FY 1986, respectively.

The Board's study did not find any clear correlation between an agency's estimate of the amount of training provided to employees and the rate of alleged sexual harassment within that agency as measured by employee responses to the MSPB questionnaire. A number of possible reasons exist for this lack of correlation. The Board's study, for example, did not attempt to judge the quality or the content of the training provided. Nevertheless, it is logical to assume that

quality and content have a significant impact on training effectiveness. It is also possible, given the complexity of the problem, that training alone cannot resolve the problem of sexual harassment. Even so, properly structured training may be part of the answer.

**Figure 4-1.**  
**For 22 Federal Departments And Agencies During FY 1980 Through FY 1986, Total Length Of Time An Average Employee Spent In Sexual Harassment Training**

1 hour or less	27% (6 of 22 agencies)
1-2 hours	55% (12 of 22 agencies)
3-4 hours	9% (2 of 22 agencies)
4-8 hours	(2 of 22 agencies)

### **Policy Statements and Other Guidance Reach Most Employees**

When asked whether they had issued policy statements prohibiting sexual harassment or other guidance on this issue, every agency noted that it had issued a policy statement or other guidance at least once during FY 1980 through FY 1986. Not all agencies provided the information each year. For example, the Departments of the Army and Education did not release any statements or guidance during FY 1982 through FY 1986. A review of current agency policy statements submitted in response to the Board's request reveals that in many cases the statements were developed years ago and have never been updated.

Typically, agencies distributed their policy statements or guidance to all employees (21 of 22 agencies), and all agencies made the information available in their EEO and personnel offices. Most also posted the material in public hallways and on office bulletin boards and provided copies to employees participating in sexual harassment training. They also used such other means of dissemination as:

- EEO meetings;
- Employee newsletters;
- Federal Womens' Week activities;
- Published standards of conduct;
- Segments of management training courses; and
- Orientation for new employees.

**Employees' awareness.** The Board asked each agency to estimate the percentage of its employees the agency thought were aware of its sexual harassment policy. Agencies responded that they believe they have



communicated their policy on sexual harassment to the vast majority of their employees. Survey data support this conclusion (see fig. 4-2). Seventy-one percent of Federal employees are aware of established agency policies prohibiting sexual harassment. Approximately 24 percent did not know, and 5 percent did not think their agencies had established a policy.

**Employees' suggestions for refinements.** Written comments submitted by respondents to the Board's 1987 questionnaire provide some useful insights. Some respondents believe their agencies' policy statements should be more comprehensive and forceful. For example, some employees said their agency policy statements should publicize the possible sanctions that can result from sexually harassing others. Many respondents also suggested that their agency policy statements include definitions of the behaviors or situations that may constitute sexual harassment.

### **Information on Complaint Procedures Needs More Publicity**

The Board asked what an agency does, if anything, to inform its employees about complaint procedures available for reporting incidents of sexual harassment. In response, every agency said it had provided such information to all employees and most (18 of 22) said they had done this yearly during FY 1980 through FY 1986.

Most agencies (16 of 22) provided information about complaint procedures by distributing notices to each employee. All agencies made the information available in their personnel and EEO offices. Most (19 of 22) also posted notices in their hallways and on bulletin boards, and all but one included this information in training sessions on sexual harassment.

Despite the variety of methods used to distribute information about complaint procedures, only 14 of 22 agencies estimated that as many as 75 percent to 100 percent of their nonsupervisory employees were aware of procedures available to them for handling incidents of sexual harassment. Four agencies estimated that only 50 percent to 75 percent of their nonsupervisory employees were aware of the procedures, and another four thought only 25 percent to 50 percent were aware.<sup>2</sup> As discussed in chapter 3, however, most employees responding to the Board's questionnaire said they were generally aware of the formal complaint procedures available in their agencies, although only 55 percent believed their agencies have actually publicized those procedures.

***My daughter and one of her friends were harassed but because the proper channels were available and the awareness was present immediate action was taken.***

### *A Survey Respondent*

Agencies also provided estimates of employee awareness of formal complaint procedures. Judging from their responses, as was the case with training, many agencies apparently focus their information dissemination efforts on their managers, supervisors, and personnel and EEO officials. All but one agency estimated that 75 percent to 100 percent of their EEO and personnel officials knew about the complaint procedures, and 18 estimated this level of awareness for their managers and supervisors.

### **Processing Formal Complaints Averages Well Over 1 Year**

In response to the Board's inquiry, the 22 largest Federal departments and agencies reported that a combined total of 1,008 formal sexual harassment complaints had been filed by agency employees during FY 1980 through FY 1986. Given the combined population of these agencies, this is a relatively modest number of formal complaints.

Agencies also reported that it took an average of 482 days to process a charge of sexual harassment during FY 1980 through FY 1985.<sup>3</sup> "Process" was defined as the average length of time from the date the formal complaint was filed to the date the case was finally disposed of. As shown in figure 4-3, the number of sexual harassment complaints filed by Federal employees has increased since 1980. Agencies reported that 73 sexual harassment complaints were filed in 1980—compared to 225 in 1986.

Given the length of time to process a complaint of sexual harassment and the perception that some informal employee actions are perceived to be as effective or more effective in resolving an instance of sexual harassment, it is not surprising that relatively few victims of harassment choose to pursue formal remedies.

### **Employees' Views of Agencies' Actions Are Less Positive Than Agencies' Views**

In the Board's 1987 questionnaire and in the written questions submitted to each agency head, the following possible agency actions were listed:

- Establishing policies prohibiting sexual harassment;
- Providing swift and thorough investigations of complaints;
- Enforcing penalties against managers who allow sexual harassment to continue;
- Enforcing penalties against sexual harassers;
- Publicizing availability of formal complaints channels;

- Providing counseling services for victims of sexual harassment;
- Providing awareness training for employees; and
- Providing awareness training for managers and EEO officials.

Figure 4-2 summarizes agency and employee views on whether agencies have taken the actions listed above. As can be seen, agency management and employees have different perceptions about official agency actions taken to stop sexual harassment. For example, all 22 agencies stated they conduct swift investigations into sexual harassment complaints. Only 32 percent of employees believe this is true.

*I personally know of a man who had four complaints filed against him by four different women in a 1-year period, but continued to hold the same job. No formal action was ever taken, so he continued to harass women on the job.*

*A Survey Respondent*

**Figure 4-2.**  
**Agency And Employee Perceptions Of Agency Actions That Have Been Taken To Reduce Sexual Harassment -- Percentage Of Employees Or Agencies Who State That The Indicated Action Was Taken In Their Agency**

Possible Agency Actions	Agency Responses	Employee Respondents
Establish Policies	100%	71%
Provide Swift Investigation Of Complaints	100%	32%
Enforce Penalties Against Managers	59%	18%
Enforce Penalties Against Harassers	82%	27%
Publicize Complaint Channels	100%	55%
Train Employees	86%	46%
Train Managers and EEO Officials	95%	52%

NOTE: Agency Responses Are Those Provided To MSPB, In Writing, In Response To MSPB Questions Addressed To The Head Of Each Agency.

**Figure 4-3.**  
**Formal Sexual Harassment Complaints Filed Within The 21 Largest Federal Agencies\* -- Number of Complaint Filed by the Largest Federal Department and Agencies**

Fiscal Years	Number of Complaints
1986	225
1985	182

1984	140
1983	116
1982	118
1981	154
1980	73

\* Data from Environmental Protection Agency were not available.

Further, only in the areas of establishing policies prohibiting sexual harassment, publicizing available formal complaint channels, and providing awareness training for managers and EEO personnel do more than half the employees believe that their agencies have taken these actions.

The Board also asked the agencies and employees to tell us how effective they perceived each of the listed actions to have been in reducing sexual harassment. From among those respondents who thought that their agency had taken the indicated action and who expressed an opinion, figure 4-4 shows the percentage who also thought those actions were either somewhat or very effective. Their opinions in this regard are contrasted with the official views of their agencies. As shown, with regard to almost every type of action, the agencies believed their efforts have been effective. Employees agreed to a lesser degree for each action measured.

**Figure 4-4.**  
**Agency And Employee Perceptions Of Agency Actions Which, Once Taken, Were Effective In Reducing Sexual Harassment -- Percentage Of Employees Or Agencies Who State That The Indicated Action Was Taken And That It Was Very Or Somewhat Effective In Reducing Sexual Harassment**

Agency Actions Taken	Agency Responses	Employee Respondents
Establish Policies	100%	79%
Provide Swift Investigation Of Complaints	100%	74%
Enforce Penalties Against Managers	85%	65%
Enforce Penalties Against Harassers	89%	72%
Publicize Complaint Channels	95%	73%
Train Employees	100%	76%
Train Managers And EEO Officials	100%	81%

**NOTE: Agency Responses Are Those Provided To MSPB, In Writing, In Response To MSPB Questions Addressed To The Head Of Each Agency.**

## Chapter 4 Endnotes:

1. 1A list of the agencies surveyed is attached as appendix 2.
2. Six of these eight agencies were the same ones that did not distribute a notice on their

complaint procedures to each employee and that may have caused them to be cautious in their estimates.

3. FY 1986 was not included in developing the estimate since a number of complaints filed during FY 1986 had still not been resolved at the time the information was collected from each agency.

## Chapter 5 -- The Cost of Sexual Harassment

***A professor of psychology who gives seminars on sexual harassment reports that the biggest problem she encounters initially with managerial groups is getting males to take the subject seriously. "Hoo, hoo," they josh on entering the room, "I'm glad we're getting a course on this so I can finally figure out how to do it." This psychologist responds by beginning a deadpan recital: "In the latest court settlement of a sexual harassment case in this state, the plaintiff's employer agreed to pay her \$100,000. In that instance, the harasser had not laid a finger upon the woman \* \* \*." End of joshing.***[1](#)

### Summary of Findings

- Sexual harassment cost the Federal Government an estimated \$267 million during the study period of May 1985 through May 1987.
- These figures represent the costs of replacing employees who left their jobs (\$36.7 million); paying sick leave to employees who missed work (\$26.1 million); and reduced individual and work group productivity (\$204.5 million).

### Introduction

***I filed a sexual harassment charge against a coworker approximately 1 year ago. Since then my supervisor has not allowed us to work a shift or weekend alone or unsupervised. This is being done to avoid any unwanted sexual attention. So, the charge has affected my ability to work with others on the job for more than 6 months.***

*A Survey Respondent*

In light of a staggering Federal deficit and the resultant initiatives to reduce Government spending, the costs incurred by sexual harassment become even more critical to our analysis. As our survey results show, sexual harassment has enormous and far-reaching effects and costs (often relatively hidden) to both victims and the employing organization. One obvious consequence of harassment is the emotional stress suffered by the victim. Other costs include the aftermath of harassment that affects the performance of the victim and the victim's work

group: loss of productivity, lowered morale, absence from work, and job turnover. Additionally, there is the potential for relatively high costs to the organization as a consequence of litigation victims may bring.

In this chapter, we examine the direct monetary cost to the Government of sexual harassment in the Federal workplace. In 1987 we asked victims whether they had used sick leave after being sexually harassed, since such leave is a direct cost to the Government. The questions repeated from the 1980 survey dealt with whether victims left their jobs after being harassed or experienced reduced productivity after the harassment occurred. Additionally, to gain understanding about victims' responses to harassment in 1987, we asked for the first time whether victims had used annual leave or leave without pay after being sexually harassed. We also asked a question similar to one used in 1980 concerning whether victims had sought medical or counseling assistance after being harassed. However, we do not include the results of either of these questions in our overall cost analysis since the leave and assistance we asked about are not direct costs to the Government. At the conclusion of the analysis on costs to the Government, the emotional and monetary costs to victims are discussed.

### Overall Cost to the Federal Government

As mentioned earlier, sexual harassment cost the Federal Government an estimated \$267 million during the survey period of May 1985 through May 1987. Table 1 is a listing of those costs.

Table 1 -- Cost of Sexual Harassment	
Cost Item	Total (in Millions)
Job Turnover	\$36.7
Sick Leave	\$26.1
Individual Productivity	76.3
Work Group Productivity	128.2
<b>Total</b>	<b>\$267.3</b>

**Cost of job turnover.** Approximately 36,647 victims left their jobs during the 2-year period as a result of being sexually harassed.<sup>2</sup> Losing an employee usually has an impact on at least three types of measurable costs for management: recruiting and other personnel costs associated with offering the job to a replacement, the cost of a background check on potential employees, and the cost of training a replacement.

The Merit Systems Protection Board's 1980 sexual harassment study reported that, based on data from the Office of Personnel Management, it cost approximately \$914 to fill a vacancy. To account for inflation, this amount has

been raised to a conservative estimate of \$1,000.<sup>3</sup> Given this assumption, job turnover resulting from sexual harassment cost the Federal Government a total of \$36.7 million—\$24 million for women and \$12.7 million for men—over the 2-year survey period (see table 1).

These cost estimates are conservative in that they assume the first person offered the job accepted it; omit the costs of having a job vacant (e.g., work not done or overtime for other employees); and omit the costs of payroll adjustments. The projected number of Federal employees who quit because of sexual harassment is also conservative. The survey was administered only to Federal employees—thus excluding individuals who may have left the Government as a result of harassment.

**Cost of sick leave used.** To measure the dollar cost of sick leave used because of emotional or physical consequences of sexual harassment, victims were asked how much sick leave, if any, they used as a result of unwanted sexual attention. Responses show that an average of 13 percent of both male and female victims used sick leave after being harassed. Based on the responses, and the average salaries of federally employed men and women, the approximate cost of sick leave used is \$26.1 million.<sup>4</sup>

**Cost of decline in individual productivity.** This report defines "decline in individual productivity" to be a loss in the quality or quantity of work performed by an individual. The estimates of the costs of lowered productivity due to sexual harassment are based on victims' responses to questions concerning the degree to which their productivity declined and the duration of any reduction in productivity.<sup>5</sup> Based on average yearly salaries for federally employed women and men, we estimated that reduced individual productivity due to sexual harassment cost the Government \$76.3 million over the 2-year survey period.

**Cost of decline in work group productivity.** In 1980, victims were asked whether the unwanted sexual attention they received affected the productivity of others in their work group. Using their responses and average salaries of victims, the Board estimated that the average cost of reduced productivity was \$110.89 per female victim and \$263.69 per male victim. With the rise in average salaries for men and women and the increase in the number of victims of sexual harassment since 1980, it is now estimated that the total cost of decline in work group productivity is \$128.2 million.

***Constant reminders of one's sex, even in terms of mild teasing, jokes, and stereotyping, can erode a woman's confidence over time and decrease productivity.***

*A Survey Respondent*



## Costs to Victims

Our purpose in this chapter is to assess costs to the Government. That we do not attempt to quantify or otherwise assess all the many costs to victims does not mean they are less important or less significant. In the following limited analysis, we hope to provide at least a beginning perspective on this important topic.

Victims pay all the intangible emotional costs inflicted by anger, humiliation, frustration, withdrawal, dysfunction in family life, or other damage that can be sexual harassment's aftermath. Victims of the most severe forms of harassment, including rape, can face not only severe emotional consequences but even the possibility of a life-threatening disease. Some victims may leave jobs with a better career path for one with a poorer career path, to escape the sexual harassment. If victims decide to litigate, they may bear monetary costs, depending on the outcome.

Only 2 percent of female victims and 3 percent of male victims whom we surveyed said they had sought medical assistance, emotional counseling, or both as a result of unwanted sexual attention. While these percentages are low, the 12,641 individuals they represent in the total Federal work force faced significant out-of-pocket costs for that portion of treatment not paid for by their health insurance. We note also that in the long run, all employees and the Government bear some of the costs of treatment in the form of premium increases imposed by health plans when use increases.

Victims also bear the cost of any leave they take other than sick leave. Our survey found that 12 percent of both female and male victims used annual leave after being sexually harassed, and 2 percent of female and 4 percent of male victims used leave without pay.<sup>6</sup> Using average salaries as the base, we found that the annual leave taken as a result of sexual harassment was valued at \$25.6 million. The figures are even more telling when we consider that annual leave is a rather cherished benefit that employees normally want to save for vacation time or essential personal business—not for recovery from the trauma or stress of sexual harassment. An even more direct monetary loss to victims is seen in the figures for leave without pay. Using average salary levels and reported use by survey victims, employees who said they took such leave after being sexually harassed lost a total of \$9.9 million in salaries.

## Chapter 5 Endnotes:

1 Walter Kiechel, "The High Cost of Sexual Harassment," *Fortune*, Sept. 14, 1987.

2 Figures projected from victims who indicated they quit or were fired from their jobs, or were transferred, or were reassigned to a new Federal job because of unwanted sexual attention.

3 While this may seem to be a low inflation estimate, it takes into account some reduction in costs associated with the greater use of automation in Federal personnel offices.



4 Average salaries (\$29,926.72 for men and \$20,641.86 for women) are based on data derived from "Federal Civilian Workforce Statistics: Occupations of Federal White-Collar and Blue-Collar Workers," published Oct. 31, 1985, by the Office of Personnel Management, Office of Workforce Information.

5 Using the responses of victims to the Board's questionnaire, the average number of days of reduced productivity for victims was reduced relative to 1980 estimates. These averages were used to determine average percentages of workyears lost. This figure was multiplied by the projected number of victims for the population (based on the actual number of victims from our survey) to determine the total amount of productivity lost by men and women victims. These totals were then multiplied by average salaries for men and women to estimate total costs of decline in productivity.

6 Victims were asked to provide the amount of leave used, in categories ranging from fewer than 8 hours to more than 80 hours. The responses provided more precise estimates than "total percentage of users" could have provided.

## Chapter 6 -- The Legal Imperative to Prevent Sexual Harassment: A Review of Case Law

*Courts applied \* \* \* [the principle that an employee's protections under Title VII extend beyond the economic aspects of employment] to harassment based on race, \* \* \* religion, \* \* \* and national origin \* \* \*. Nothing in Title VII suggests that a hostile environment based on discriminatory sexual harassment should not be likewise prohibited.*[1](#)

### Overview

Sexual harassment case law has developed and broadened significantly since 1981, when our first report characterized it as "limited but growing." It has now been well established that sexual harassment is sexual discrimination. The Equal Employment Opportunity Commission regulations (29 C.F.R. §1604.11) on sexual harassment have been upheld by the Supreme Court as a lawful regulatory interpretation of Title VII of the Civil Rights Act of 1964, the title that bars discrimination in employment on the basis of sex.[2](#) Similarly, it is well established that sexual harassment is a prohibited personnel practice because Congress declared in the Civil Service Reform Act that violations of Title VII were also prohibited personnel practices.[3](#)

The following discussion of important Merit Systems Protection Board and Federal court decisions relating to sexual harassment /is not intended to be a complete listing of all cases. It does, however, identify decisions on major issues relating to sexual harassment that were rendered from January 1981 through January 1988.

In the following cases the Board and a Federal court recognized the right of women employees and women applicants to be free from sexual harassment in Federal employment: *Downes v. F.A.A.*, 775 F.2d 288 (Fed. Cir. 1985); *Henson v. City of Dundee*, 682 F.2d 897 (11th Cir. 1982); *Bundy v. Jackson*, 641 F.2d 934 (D.C. Cir. 1981); and *Jones v. Department of Justice*, 24 M.S.P.R. 230 (1984).

A number of Board and Federal court decisions have recognized the right of the employing agency to discipline employees who engage in sexually harassing behavior. These cases include: *Carosella v. United States Postal Service*, 816 F.2d 638 (Fed. Cir. 1987); *Hillen v. Army*, 35 M.S.P.R. 453 (1987); and *Vakili v. Department of Agriculture*, 35 M.S.P.R. 534 (1987).

In addition, *Social Security Administration v. Carter*, 35 M.S.P.R. 485 (1987), is a case in which the Board sustained an agency's right to discipline an administrative law judge for acts of sexual harassment. In *Special Counsel v. Russell*, 32 M.S.P.R. 115 (1987), the Board sustained the Special Counsel's right to independently seek to discipline Government employees for such unlawful behavior.

### **Review of the *Meritor* Decision**

This 1986 U.S. Supreme Court decision made both "history and headlines," in the words of the Washington Post. Ruling in its first sexual harassment case (June 19, 1986)—the now-famous *Mentor Savings Bank, FSB v. Vinson*, 106 S. Ct. 2399—the Court issued a unanimous opinion saying that sexual harassment indeed violates Title VII if it creates a hostile or offensive environment for the victim, regardless of whether it threatens the individual's job. In this landmark Supreme Court case on sexual harassment, the Court:

- Held that the Civil Rights Act of 1964 is not limited to economic or tangible discrimination and found that the EEOC guidelines comprise proper guidance for courts and litigants;
- Called attention to the EEOC guidelines that include "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature" as being conduct that can violate Title VII, whether the injury is economic or noneconomic;
- Held that environmental sexual harassment can violate Title VII if it is severe or pervasive enough to actually affect the alleged victim's work conditions and create a hostile environment. However, remarks that simply offend someone's feelings but are not pervasive harassment creating a hostile environment would not violate Title VII;
- Stressed that prohibited sexual advances are those that are unwelcome. Even if the harassing conduct results in the alleged victim's voluntary (not

- forced against the will) participation in sexual intimacy, the harassment can violate Title VII; the key question is whether the sexual advances were unwelcome; and
- Ruled that any evidence of an alleged victim's sexually provocative speech and dress may be admitted at a trial in defense against a sexual harassment charge.

While *Mentor* focuses on whether a supervisor created a hostile environment, the EEOC guidelines make it clear that sexual harassment by coworkers can also violate Title VII.

### **Liability Findings and Implications in *Meritor***

While the Supreme Court in *Meritor* did not issue a definitive rule on employer liability, the ruling did have important implications for sexual harassment initiated by supervisors. The Court ruled that:

- Employers can, in certain circumstances, be held responsible for sexual harassment by their supervisory employees;
- Employers are not necessarily insulated from that liability because they were not aware of sexual harassment by their supervisory employees; and
- Existence of a carefully tailored grievance procedure and non-discrimination policy which specifically addresses sexual harassment, coupled with the employee's failure to use the procedure, can insulate the employer from liability.

In making these rulings, the Supreme Court endorsed the EEOC regulations that provide that Federal agencies can be held liable for acts of sexual harassment by their supervisory employees even when certain policies and procedures to prevent it are in existence.

For guidance on employer liability for acts of sexual harassment by coworkers and nonemployees, lower courts continue to look to EEOC's guidelines. These apply general Title VII principles in outlining an employer's responsibility for the conduct of supervisors, agents, coworkers, and nonemployees.

## **Chapter 6 Endnotes:**

<sup>1</sup> *Meritor Savings Bank, FSB v. Vinson*, 106 S.Ct. 2399, 2405 (1986).

<sup>2</sup> This *decision*—*Meritor Savings Bank, FSB v. Vinson*, 106 S.Ct. 2399 (1986)—is discussed later in this chapter.

<sup>3</sup> 5 U.S.C. §2302(b)(1)(A).

## Chapter 7 -- Recommendations

*Many times, there was an "old boys network" that served to tacitly condone or at least "look the other way" at cases of discrimination or harassment. This situation inhibits female employees from making complaints. The action I took to prevent sexual harassment was to dress abnormally. That meant I either put on more clothes than normal, or dressed unattractively and out of style.*

*A Survey Respondent*

### Introduction

This report finds that sexual harassment remains widespread in the Federal workplace. At the same time, agencies have established and publicized policies that prohibit sexual harassment on the job. Overall, Federal employees are aware of these policies. Agencies have also provided related training to their managers and personnel and EEO officials, as well as some of their nonsupervisors, so that they will understand what sexual harassment is and how to prevent it.

However, given the persistence and pervasiveness of sexual harassment in the Federal workplace, it is clear that efforts to prevent it have not been successful enough. Also, as the data presented in chapters 3 and 4 indicate, many employees are skeptical about the efforts of their agencies to deal with the problem.

As this report has discussed, there is still considerable confusion and disagreement about what behaviors can constitute sexual harassment. Part of this disagreement may well stem from the fact that whether an action or behavior constitutes sexual harassment depends not only on the intent of the person taking the action but also on the perceptions of those affected by it. Based on the responses to the Merit Systems Protection Board's latest questionnaire, a considerable percentage of Federal employees experience unwelcome and uninvited behavior of a sexual nature on the job. It is this behavior which this report defines as sexual harassment.

Based on the results of this study, it also appears that some managers and employees do not take the prohibition against sexual harassment seriously. As illustrated by the comment below, sexual harassment can be met with tolerance—tolerance that is a peculiar mix of sufferance on the one hand and refusal to even see the behavior as an issue on the other.

*In my agency, sexual jokes, gestures, and teasing are practically an everyday experience. You learn to put up with it, or you leave.*

*A Survey Respondent*

The courts are continuing to develop and refine case law on sexual harassment. In the process they are leveling penalties against the men and women they find responsible. Courts at various levels are repeatedly supporting the EEOC guidelines on sexual harassment as a violation of Title VII of the Civil Rights Act of 1964. Aggressive action to ensure that the Federal workplace is free from sexual harassment is both proper and in the best interests of the Government. To assist Federal agencies in this regard, we recommend the following actions.

## **Recommendations**

### **1. Training**

**Agencies should tailor their training/educational programs on sexual harassment to the individual needs of each agency and ensure that they address the underlying issues discussed in this report.** For training efforts to succeed, agencies must provide Federal employees with more than generic warnings that sexual harassment is improper. It must be clear that certain behavior can be deemed illegal and that sanctions can and will be applied to the responsible parties. In addition, however, the training should strive to increase the sensitivity of all parties as to the many faces of sexual harassment and what can be done informally as well as formally to reduce the incidence.

As an example of an innovative approach in this area, one Federal official responsible for a large installation took actions to halt sexual harassment that are similar to methods often used in the Federal Government to prevent alcohol and drug abuse. All managers and supervisors at this workplace were required to take sexual harassment training. Among those attending that training were employees with a history of sexually harassing behavior. These latter employees were notified by management that their attendance at training was required in a final effort to eliminate their prohibited behavior. They were informed that further sexual harassment of others on the job would result in a personnel action against them—including possible dismissal.

Aiming sexual harassment training at managers and personnel officials (see ch. 4) may have been appropriate initially, considering always-limited training resources, competing needs, and the imperative for initiating training focused on a problem newly recognized as serious in the Federal workplace. However, in view of the continued high level of alleged sexual harassment in the Government and increasing attention to the possible existence of a "hostile environment,"

agency training programs should also be broadened to include the entire work force.

Specifically, training should:

- Thoroughly cover the range of possible behaviors and the circumstances under which those behaviors may be considered sexual harassment; the formal and informal actions for seeking relief; the right to confidentiality under certain circumstances for those alleging harassment; the prohibition against reprisals; and current case law relevant to sexual harassment;
- Be provided to all employees, including nonsupervisory personnel. Also, training should enlighten all employees on their roles and responsibilities in preventing sexual harassment;
- Be quickly offered to new employees; and
- Be periodically evaluated for effectiveness. Agencies must be concerned with both the quantity and quality of sexual harassment training they offer. Managers should do a "quality control" review of their training efforts.

## **2. Policy Statements**

***Agencies should widely publicize a detailed list of specific actions that constitute sexual harassment, and penalties for each of the actions.***

*A Survey Respondent*

**Agencies should annually evaluate, modify, and reissue their policy statements on sexual harassment.** Those statements should:

- Make it clear that sexual harassment is against the law (see ch. 6) and the agency will not tolerate it;
- Demonstrate the agency's commitment to the policy by issuing the statement under the signature of the agency head;
- Define the various behaviors that may constitute sexual harassment; this information should include a description of activities that may create a hostile environment (see the EEOC's guidelines on sexual harassment as a form of discrimination, cited in ch. 1; see also, for example, the descriptions of verbal, nonverbal, and physical sexual harassment in the selection of policy statements published in 1987 by the Bureau of National Affairs<sup>1</sup>); and
- State the range of penalties the agency can levy against the offender, from warning to dismissal; discuss the possibility of personal liability for unlawful acts of harassment; and include reinforcing facts such as

anecdotal or summary information on penalties already levied within the agency (or in other agencies) against sexual harassers.

### 3. Enforcement Action

***I know my agency provides for swift investigations and disciplinary action for sexual harassers and for supervisors who allow such misconduct to continue.***

*A Survey Respondent*

**Agencies should establish strong and effective sanctions against sexual harassment and issue penalties where appropriate.** Agencies should, where possible, publicize to all employees the penalties harassers face, from harassers who make submission a condition or benefit of employment to those who contribute to creating an offensive or hostile environment.

If policy statements treat penalties only in brief, such as by giving only ranges or examples, agencies should make doubly sure to publicize through additional means the complete array of penalties. Either way, agencies should ensure that all employees, including managers and supervisors, are given as complete and specific information as possible.

### 4. Complaint and Investigation Procedures

In *Meritor, FSB v. Vinson* the Supreme Court found that the "mere existence of a grievance procedure \* \* \* and [a] policy against discrimination \* \* \* does not necessarily insulate the [employer] from liability." Also, the Court noted that the employer's insulation "from liability might be substantially stronger if its [grievance] procedures were better calculated to encourage victims of harassment to come forward."[2](#)

***Agencies should post prominently the grievance procedures available for an individual who wishes to report sexual harassment.***

*A Survey Respondent*

***In many cases, it seems that the person harassing you thinks he's cute and doesn't consider his off-color remarks, etc., to be distasteful or unwanted. Training should be provided on what is appropriate behavior.***

*A Survey Respondent*

**Agencies should review both the formal and informal avenues of redress available to employees who believe they are victims of sexual harassment and quickly institute any needed reforms.** As a beginning, agencies should determine whether the process is timely and is otherwise appropriate for dealing with a sexual harassment allegation. As noted in *Meritor*, it is possible that liability on the part of an employer could be mitigated if the complaint process is tailored to accommodate charges of sexual harassment.

**Agencies should review the ways in which they process formal complaints as part of a concerted effort to reduce the number of days it takes to resolve such complaints. A goal of 120 days is reasonable.**

**Agencies should widely publicize the institutionalized, or formal, complaint channels available, as well as the more informal actions employees may take, such as informing a supervisor.** This publicity should clarify the way in which employees may use the formal channels, including how to contact the appropriate persons for assistance. Agencies should designate such personnel carefully, since a situation dealing with a charge of sexual harassment is highly charged and needs to be handled by a sensitive, knowledgeable person. It is particularly important for agencies to be sensitive to the need to designate employees of both sexes in whom victims can confide.,

As noted in chapter 4, employees view the effectiveness of agency actions less positively than agencies view them. This suggests that agencies need to instill more confidence in their employees with regard to agency concern about sexual harassment, determination to reduce its incidence, and commitment to strengthening procedures for dealing with it.

Ensuring that employees are fully aware of the alternatives available to them if they are harassed (and the specific steps to follow if they choose to pursue some type of action) can significantly help increase employees' confidence in their agencies' handling of sexual harassment.

Each agency should have a complaint process that gives employees confidence that the agency will (1) take sexual harassment allegations seriously, (2) handle them expeditiously, (3) strive for forceful and fair resolution, (4) enforce penalties against harassers, and (5) not tolerate reprisals.

## **5. Additional Prevention Efforts**

Prevention efforts could include periodic random, anonymous surveys to determine whether sexual harassment is a problem in a given agency, department, or office within that agency. An evaluation/prevention effort could include conducting periodic followup interviews with all personnel involved in the



settlement of both informal and formal complaints. These interviews would allow management to assess the current work environment of the employees involved to ensure that problems relating to that sexual harassment incident were no longer extant.

## **Conclusion**

MSPB recognizes that the complete absence of behaviors that some consider sexual harassment may not be possible. However, we believe agency heads must make it clear they are taking a "zero tolerance level" approach to sexual harassment in their workplaces. We also believe that implementation of the recommendations in this report will result in a significant, long-term reduction in the incidence of sexual harassment.

## **Chapter 7 Endnotes:**

1 Sexual Harassment: Employer Policies and Problems," PPF Survey No. 144, Wash., DC, June 1987.

2 *Meritor Savings Bank, FSB v. Vinson*, 106 S. Ct. 2399, 2409 (1986).

3 In *Meritor*, at issue was that the bank's complaint procedure required a sexually harassed employee to report the incident to his or her supervisor. In this case, the alleged harasser was also the supervisor of the woman who believed she was a victim. The Court found that this complaint process was not tailored to accommodate the person charging sexual harassment.

## **Appendixes**

### **Appendix 1: 1987 Questionnaire (not included in this electronic version)**

### **Appendix 2: The 22 Largest Federal Departments and Agencies**

#### **The 22 Largest Federal Departments and Agencies**

1. Department of Agriculture
2. Department of the Air Force
3. Department of the Army
4. Department of Commerce
5. Department of Defense
6. Department of Education
7. Department of Energy

8. **Department of Health and Human Services**
9. **Department of Housing and Urban Development**
10. **Department of Interior**
11. **Department of Justice**
12. **Department of Labor**
13. **Department of the Navy**
14. **Office of Personnel Management**
15. **Department of State**
16. **Department of Transportation**
17. **Department of the Treasury**
18. **Environmental Protection Agency**
19. **General Services Administration**
20. **National Aeronautics and Space Administration**
21. **Small Business Administration**
22. **Veterans Administration**