Transforming Workplace Culture in the Police Service

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Transforming Police Culture

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Introduction

The Toronto Police Service and the OPP are committed to eradicating harassment and discrimination in police services and to acting as leaders in driving positive change in police culture.

In support of that important goal, on November 15, 2021 the Toronto Police Service and the OPP organized a roundtable meeting of representatives of various police services across the province, as well as the RCMP.

The purpose of the roundtable meeting was twofold:

i) to discuss challenges in addressing and eliminating harassment and discrimination in the police service; and

ii) to explore whether and how to work together to achieve the common goal of creating and maintaining psychologically safe and respectful workplaces.

The roundtable was facilitated by The Bernardi Centre. The Bernardi Centre is the training arm of Bernardi Human Resource Law LLP, a human resource law firm that has extensive experience working with police agencies across the province.

In this report, we:

- provide evidence-based information about the persistence of harassment

- share insights and recommendations based on decades of conducting work with police agencies

- summarize the discussions from the November 15th roundtable meeting, including an action plan for moving forward

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Current State

Headlines and news programs across the country reveal stories of workplace bullying, harassment and sexual harassment in policing. It is being experienced in police services of all sizes.

There are common themes that emerge from these stories that reveal an overarching culture where:

- stereotypical gender norms are enforced
- sexual comments, innuendoes, gestures and "jokes" are normalized
- demeaning comments or conduct based on sex and gender are frequent
- mobbing (i.e., group bullying) and gender-based harassment exist
- rumours and gossip are common
- the chain of command acts as a barrier to change
- there is a culture of silence keeping people from coming forward
- there is a strong distrust of the internal complaint and investigation process.
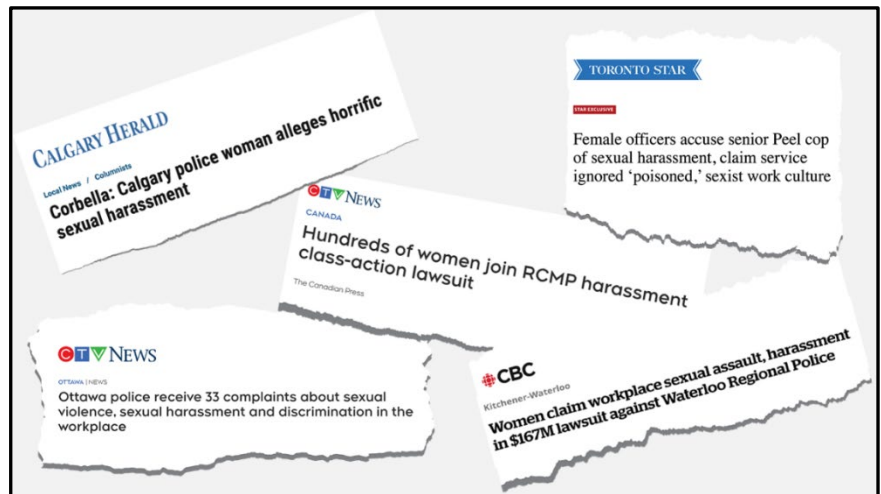
THE IMPETUS FOR CHANGE

Society is changing. So too are societal norms and tolerance for harassment and discrimination. Sexual and racial harassment have garnered the most attention, but all forms of harassment are being called out in the workplace. Police culture needs to adapt to reflect changes in societal norms.

In organizations where change is already happening, we are seeing:

- a rejection of authoritarian, rigid chain of command structures
- insistence on respect above strict adherence to authority
- a shift toward more collaborative approaches
- greater emphasis on inclusivity and a call for an end to harassment of all types

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Agencies that resist the tide of societal shifts risk organizational and legal repercussions, which are increasingly visible to the public eye. Recent human rights case law in the police sector make it evident that time is up, and change is due.[1]

IT IS A PSYCHOLOGICAL HEALTH AND SAFETY ISSUE

The workplace should be a place where members are safe, physically and psychologically. Fortunately, closer attention is being paid to workplace mental health, including in the police service.

Harassment is a barrier to psychological health and safety. The *National Standard for Psychological Health and Safety in the Workplace*[2] defines civility and respect as:

> " *A workplace where employees are respectful and considerate in their interactions with one another, as well as with customers, clients and the public. Civility and respect are based on showing esteem, care and consideration for others, and acknowledging their dignity.*

A civil and respectful workplace results in:

- greater job satisfaction and perception of fairness
- positive attitudes and improved morale
- better teamwork and engagement in problem resolution
- greater interest in personal development
- enhanced supervisor-staff relationships
- reduction in sick leave and turnover[3]

The impact of harassment on mental health is significant. Victims of harassment and those who are exposed to it may experience:

- depression, anxiety and PTSD
- drug and alcohol dependency
- physical manifestations of stress
- more sick time and leaves of absence
- diminished safety, morale and productivity

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[1] *McWilliam v. Toronto Police Services Board*, 2020 HRTO 574

[2] The National Standard for Psychological Health and Safety in the Workplace identifies 13 psycho-social factors important to psychological safety one of which is civility and respect

[3] Canadian Centre for Occupational Health and Safety: https://www.ccohs.ca/oshanswers/psychosocial/mentalhealth_risk.html

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- a breakdown in personal and work relationships

In response, individuals leave the jobs they love by resigning from the service or transferring to different units to escape an intolerable environment.

But it's not just the targets who are impacted. Harassment affects everyone.

> **"** *The damaging personal effects of harassment are not limited to victims. There is growing understanding that employees who observe or perceive mistreatment in their workplace can also suffer mental and physical harm.[4]*

BARRIERS TO ELIMINATING HARASSMENT

1.   Evidence-based research

For decades organizations have tried to eliminate workplace harassment and discrimination. Employers have implemented policies, investigated complaints and provided respect-in-the-workplace training to hundreds of thousands of employees. And yet it persists, with some reports indicating it is getting worse. The question is, "why"?

In 2016 the U.S. Equal Employment Opportunity Commission (EEOC) set out to answer that very question by establishing the *Select Task Force on the Study of Harassment in the Workplace*. Although their focus was on sexual harassment, their findings can be extrapolated to other types of harassment and discrimination, including workplace bullying and racial harassment and discrimination. Their report was released in June 2016.[5]

Because the task force was focused on prevention, it extended its review to behaviours that might not meet the legal definition of harassment but which, if left unchecked, could lead to it.

The task force found that:

- harassment largely goes unreported – harassment victims are more likely to avoid the harasser, downplay the behaviour or ignore it, with a formal complaint being the least likely response

- workplace culture can either allow harassment to flourish or prevent it from happening and leadership plays a critical role in that culture – it truly does start at the top

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[4] *Select Task Force on the Study of Harassment in the Workplace* Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic, June 2016

[5] The task force was comprised of 16 members representing academia from various social science disciplines (sociology, psychology and industrial psychologists), lawyers for both employers and employees, employer and employee advocacy groups and organized labour

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- strong accountability systems are required, and they must address not only harassment but also incivility and microaggressions, which are erroneously seen as not sufficiently serious to address

- bystanders need better tools to speak up, and the culture of silence needs to be broken so that everyone works collectively to change the culture

2. Workplace risk factors

The task force identified certain workplace risk factors which increase the likelihood of harassment.[6] The ones most relevant to policing are noted below.
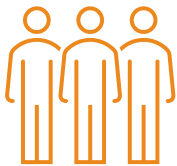
Sexual and gender-based harassment is more prevalent in male dominated workplaces

Homogenous workplaces that lack diversity

Harassment is more likely to occur in workplaces lacking in diversity, whether related to gender, race, colour, sexual orientation or otherwise.

Sexual and gender-based harassment is more common in male dominated workplaces. And racial harassment is more common where the workplace is predominantly composed of one race or ethnic background.

Being outnumbered makes it even harder to speak up against the behaviour.
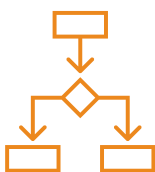
A strict chain of command makes it harder to speak up

Workplaces with significant power disparities

Where organizations operate under a strict chain of command, authority figures may feel emboldened to exploit those in lower ranks and to close rank against complaints. And lower-ranking employees, especially those in the minority, feel too vulnerable to speak up.

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[6] For more information, please refer to the U.S. EEOC's Chart of Risk Factors for Harassment and Responsive Strategies: https://www.eeoc.gov/chart-risk-factors-harassment-and-responsive-strategies

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Workplaces with "high value" employees

The conduct of employees in senior level or higher-ranking positions may be minimized or condoned. And high value employees may perceive themselves to be exempt from workplace rules and immune from consequences.

There is also a tendency to seek greater proof when allegations are made against senior-ranking officials.

Employees in high-ranking positions are sometimes protected

Social discord

Social discord in society at large increases tension and conflict in the workplace. Polarizing and heated discourse may also normalize behaviours that can ultimately lead to harassment. Given the intensity and extent of current social discord, this is a significant risk factor.

Social discord leaks into workplaces

Alcohol consumption

Alcohol consumption reduces social inhibitions and impairs judgement. Where employees frequently socialize and drink together, lines can become blurred and inappropriate behaviour is more likely to occur.

Boundaries can get crossed when people are consuming alcohol together

3.   The shield of silence

Perhaps the biggest hurdle to combatting harassment is silence. In many organizations, particularly policing, the shield of silence is a powerful barrier to speaking up. Being silenced can also be more psychologically damaging than the harassment itself.

The shield of silence manifests in multiple ways.

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Being viewed as a "rat"

Calling out bad behaviour can put a target on someone's back. Those who come forward can be labelled as a rat, troublemaker or kiss-up to management. And they become socially isolated.

Those who don't "rat" someone out may be seen as more trustworthy.

There is pressure not to "rat out" others

Credibility discounting

Victims are often subjected to tactics that paint them as not credible. Delays in coming forward, lapses in memory due to traumatic events or ongoing relationships with those who have harassed them are weaponized to suggest complainants lack credibility. But these are common psychological responses to harassment.

People will hesitate to come forward when others are subjected to a campaign to prove they are lying.

Complainants' credibility is sometimes attacked

Distrust of complainants

Rather than being supported by their peers, victims of harassment are often ostracized and viewed as less trustworthy. This compounds the impact of the original harassment.

Those who complain are seen as untrustworthy

Belief the harasser will be protected

People won't speak up if they believe the harasser will be protected. Sometimes that belief is warranted, particularly when the respondent is in a supervisory capacity.

We commonly hear "rank protects rank", which prevents people from coming forward.

Rank protects rank

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There can be a backlash against those who complain

Individuals who complain fear, and experience, retaliation. Sometimes this comes in the form of challenges to promotions and career growth because they are tagged as "complainers" who break rank.

Other times the retaliation is social: they are subjected to exclusion, ostracizing, gossip, and character assassination, all of which are incredibly painful.

4. Not paying enough attention to civility and professionalism

We have been told not to "sweat the small stuff" but in our experience, the small stuff matters because it accumulates, increasing the risk of workplace harassment or even violence. If disrespectful conduct is condoned and tolerated in the workplace, it can lead to a workplace culture that is toxic, with corresponding retention issues, increased sick leave, low morale, and increased risk of legal liability.

When incivility becomes normalized there is a far greater risk of harassment. As noted by Lauren Stiller Rikleen in the *Shield of Silence*:

> *...workplace programs designed to meet the letter of the law are generally ineffective. Too often, such programs are premised on the notion that negative behaviours are caused by a lack of knowledge about what conduct is and is not acceptable[7]*

5. Focusing on individuals rather than workplace norms

Historically employees have been given the same piece of advice about workplace behaviour: "know your audience". The intent is that it is safe to joke or engage in certain behaviour as long as the other party's comfort level and degree of tolerance is known.

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[7] Rikleen, Lauren Stiller. *The Shield of Silence*. American Bar Association, 2019, at p. 72

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In other cases, employees are instructed to be mindful around certain individuals who are viewed as more "sensitive". In either case, the emphasis is placed on the recipient rather than on workplace norms.

Focusing on professionalism and acceptable workplace behaviours, rather than individual tolerance, correctly places the emphasis on culture and norms and removes the onus on the recipient to instigate change by reporting unwelcome behaviour. It also prevents retaliation against those who are perceived to be taking away the "fun" in the workplace.

6.   Leaders lack the skills and tools to address harassment

We often hear leaders tell us they don't know how to address unprofessional behaviour in the moment. Or how to have the conversation with those who report harassment or are alleged to have engaged in it. Leaders who are not well-equipped, or who don't feel confident in how to respond, may fail to follow the right steps, condone the behaviour by omission, and put a chilling effect on people's comfort in coming forward to report.

7.   Backlash

We have seen increased backlash against efforts to address harassment and discrimination as well as broader equity, diversity and inclusion measures. This includes comments that "white men can't get ahead", negative comments about having to attend anti-harassment training and pushback against efforts to drive positive change.

It is critical to recognize the perception among some groups that they are being attacked or blamed for inequities and that they are now losing out. Doing so can reduce backlash and help drive a shared understanding of the mutual benefits of change.

> " *The magnitude of anti-sexual assault movements like #MeToo and #TimesUp has seeded fear in the minds of young men that they are being discounted, replaced and denigrated, while women gain more momentum and recognition. This mirrors the same kind of backlash we are seeing as white supremacy is increasing as movements like #BlackLivesMatter get traction…The message these men seem to be absorbing is that if marginalized groups have more rights, they will have fewer, which is of course not at all how human rights work.*[8]

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[8] Plank, Liz. *For the Love of Men*. St. Martin's Griffin, 2019, at p. 52

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CHALLENGES SPECIFIC TO POLICING

1.   Police culture

Police culture is unique, bringing with it unique challenges and barriers to eliminating harassment and discrimination. We have highlighted some of these below.

Leaders try to maintain friendships with direct reports

Leaders are, or want to be, friends with the people who report to them

Although not unique to policing, mid-level leaders often want to be friends with the people who report to them, or at least want to be liked by them.

And sometimes they actually are friends. They may have been constables at the same or have attended police college together. In smaller communities, their families may also know each other.

These personal ties create barriers to interrupting and addressing harassment proactively and in the moment.

Having family members in the same service can create an advantage

Family members may work for the same service

Sometimes multiple family members work for the same service. If one of them is a high-ranking officer, they may provide inside knowledge or guidance that gives their other family members a comparative advantage.
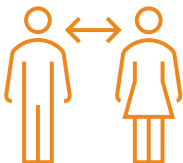
Stereotypical gender ideals hurt everyone

Hegemonic masculinity

Hegemonic masculinity is the concept that there is a dominant, socially constructed form of masculinity that is valued above femininity and other expressions of masculinity.

In Western culture, hegemonic masculinity is reflective of an authoritative, hyper-masculine, and heterosexual image of a man, while more feminine traits and behaviours are rejected. This is consistent with the dominant culture in many police services.

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When men do not exhibit traits of the dominant form of masculinity, they are often subjected to misogynist or homophobic bullying. This acts as a barrier for male officers to be openly gay, for example, or to express their gender in less stereotypical ways.

Women in policing are disadvantaged through stereotypes and biases that assume:

- nurturing, empathy, or emotional expression are signs women are weak and less competent
- women are physically and emotionally incapable of "real" police work[9]

Female officers who don't conform are ostracized

Women in positions of authority or who don't conform to these norms may be subjected to crude names, exclusion and harassment.

> " *Female officers are socialized to conform to the police culture by accepting their status as "the other" and assimilating into the subculture in order to avoid isolation from the dominant group.* [10]

Expectations to be tough and tolerate interpersonal conflict and teasing
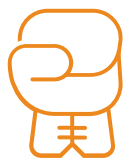
Interpersonal conflict is hard for everyone

There can be a perception that members should be able to handle conflict and teasing, particularly those on the uniform side, and be immune to the impact of harassment, given the conflict they deal with as part of the job. Our experience has been the opposite.

We have heard from many officers who say they can handle even the most difficult of calls. It is the interpersonal conflict that causes the greatest psychological harm and leads many members to consider whether to stay in policing at all.

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[9] "*I Took the Blue Pill*: *The Effect of the Hegemonic Masculine Police Culture on Canadian Policewomen's Identities*", Lesley Bilkos

[10] *Ibid.*

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Reliance on each other for safety

Officers rely on each other for their very lives.

This contributes to the reluctance to come forward and report harassment out of fear that no one will have their backs on a risky call.

Relationship boundaries may also be crossed after attending high-stress calls for service. The adrenaline induced from the call itself and the closeness that develops when discussing it repeatedly afterwards, can create an intimacy that would not exist in a typical work relationship.

Having to rely on each other for safety makes it harder to report behaviour

Relationships outside of work

Personal relationships outside of work blur the lines and boundaries in terms of what is acceptable in the workplace. It can also make people more hesitant to report someone they consider a friend.

The frequency of personal relationships, including dating and marriage, is an important contributor that should not be overlooked.

Relationships outside of work blur the boundaries

Uniform versus civilian

We repeatedly hear of a divide between the uniform and civilian sides with civilians feeling like they are treated as "second-class citizens".

And there is a sense of not being fully included in workplace initiatives and opportunities for promotions and leadership.

Uniform and civilian members are treated differently

2.   Process challenges

As identified during the roundtable discussion, there are specific process barriers faced in policing that make it more challenging to address workplace harassment.

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Procedures and timelines hinder restorative efforts

The duty to investigate both incidents and complaints under the *Occupational Health & Safety Act* (OHSA), and the procedures and timelines imposed under the PSA make other interventions and restorative practices such as mediation and conflict resolution difficult.

Tight deadlines interfere with restoration efforts

Duplication of processes

There is an overlap between investigations and findings under the OHSA and the *Ontario Human Rights Code* (the Code) versus the *Police Services Act* (PSA). This results in:

- the potential for conflicting findings

- delays, which impede the ability to address the harassment, and which disrupt the unit in which the allegations arose

- an increased psychological burden on both complainants and respondents including complainants potentially having to retell and relive traumatic events

Multiple processes create challenges

Competing standards of proof

The standard for findings of harassment under the OHSA and the Code is "balance of probabilities". This has been expressed as "more likely true than not" or 50% +1. Under the PSA, the standard is "clear and convincing evidence". This has not been adequately defined by the courts other than to suggest that it means more than "balance of probabilities" and less than "beyond a reasonable doubt".

As a result, a finding of harassment might be made in one context and not another. In our experience, the standards have also sometimes been misunderstood or misapplied by internal investigators.

Competing standards of proof can lead to conflicting findings

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Disciplinary standards

The two-year sunset clause on discipline under the PSA can impact the ability to hold people accountable for continued behaviour.

There are also different disciplinary sanctions imposed for civilians versus uniformed officers which create inherent unfairness.

Sunset clauses can make progressive discipline harder

Challenges with internal investigations

We have frequently heard individuals express concern about potential bias when investigations are conducted internally and a desire for an external process. This was also raised as a concern during the roundtable discussion with some police services moving towards greater involvement of external investigators.

Along with concerns about neutrality, people report a lack of confidentiality during investigations, which causes distrust in the process and acts as a barrier for coming forward.

There is also a lack of adequate training of internal investigators who may not be aware of or adhere to best practices for workplace harassment investigations. This includes the applicable standard of proof, or what behaviours constitute harassment.

While use of external investigators can offset concerns about neutrality and enable police agencies to tap into their expertise, it can be costly and can make a "bigger deal" out of an incident and potentially increase the timeline for completion.

And there is often inconsistency in what is deemed to be harassment and how discipline is meted out for various offences. For example, officers who are well-liked or perceived as having leadership potential may be given a proverbial slap on the wrist that still enables them to be promoted. This leads to a perception of bias and favouritism.

Internal investigators lack adequate training

There is a perception of bias with internal investigators

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Future State

While there are clearly challenges in addressing harassment and discrimination, and changing any workplace culture is complicated, there is much that can be done. There is no single approach that will address everything. But with a multipronged approach, success is within reach.

Below is a blueprint for changing workplace culture.

STRATEGIES AND RECOMMENDATIONS

1.   Improve processes

While processes on their own won't eliminate harassment, they provide a roadmap for how to address it in a consistent manner. They also help provide transparency and aid individuals in seeking remedies.

Provide a simple guide on respect in the workplace

Policies

Under the OHSA employers have a duty to review their harassment policies annually. Regardless of the legal requirement, this is a best practice.

Many of the policies we review in the police service are written in a regulatory style and can be quite dense and hard to navigate. There

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is also frequent overlap between policies. This makes it harder to navigate and understand the process.

We recommend eliminating overlap and providing an easy reference guide to the investigation process along with examples of harassment. This could be a flowchart, brochure, or even a video.

Employees want to know what to expect if they file a complaint, have a complaint filed against them, or are asked to be a witness in an investigation. Make that information easy to access.

> **"** *Organizations should not require a strict legal definition to be met before they can respond to conduct that undermines a culture of civility and respect. Behaviours can be identified as unacceptable, regardless of whether they are legally actionable.*[11]

Implement a civility policy

We also recommend having a companion policy that deals with workplace civility.

Having a civility policy enables agencies to address and apply consequences to behaviour that may not meet the threshold of harassment, but which could become harassment if it goes unchecked.

Triage complaints

Use a committee to triage complaints

Some services have instituted a practice of triaging complaints prior to commencing an investigation. The triage process can be used to determine whether some other form of restoration or conflict resolution may be appropriate and can aid in determining whether to investigate internally or by using an external investigator.

This can be performed by a small committee that can include both uniform and civilian members. Working with the police association can also help by creating greater transparency and buy-in to the decisions around how and when complaints are investigated.

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[11] *The Shield of Silence, supra*, at p.125

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Have a review committee determine outcomes

Decisions on outcome

Similar to having a committee review incoming complaints and triaging them, a committee can also be used to determine the outcome after an investigation is concluded and the report is issued. This can help ensure consistency, improve neutrality and decision-making and protect confidentiality.

Train internal investigators

Improve investigation processes

Part of the pressure to use external investigators stems from the fact that internal processes are sometimes flawed.

It is critical to ensure that internal investigators have the proper training on best practices in conducting harassment investigations as well as a solid foundation in what is, and is not, harassment and discrimination. Effective training will ensure better and more accurate and consistent findings.

Investigation training should cover:

- the duty of procedural fairness owed to all parties

- trauma-informed investigations

- witness selection (this can avoid interviewing unnecessary witnesses which increases the risk of a confidentiality breach and extends the length of the investigation)

- how to document the process

- making findings
    - the standard of proof
    - assessing credibility
    - what behaviour constitutes harassment

- effective and legally defensible investigation reports

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Establish a roster of external investigators

It may also be useful to establish a roster of external investigators.

When establishing a roster, consideration should be given to:

- the requisite skillset (harassment investigations are complex and require an understanding not just of the law but also the psychology of harassment and discrimination and the impact of trauma)

- what type of complaints should be referred to an external investigator (e.g., where the allegations involve a potential human rights breach, are serious in nature, or involve a senior leader)

Employer-initiated complaints can protect individuals

Use employer-initiated investigations where appropriate

Employer-initiated investigations are also an important tool in eliminating harassment as they remove the onus on an individual to file a complaint. The service can determine that an investigation is warranted based on information it receives without necessarily identifying a complainant. This is particularly helpful when dealing with toxic team dynamics.

Increase transparency and communication during the process Provide wellness supports

Enhance communication and support during investigations

Providing greater transparency and communication around the investigation process helps parties cope psychologically. It also engenders trust in the process. This includes regular updates on the status of an investigation, such as telling the complainant when the respondent has been notified of the investigation and when witnesses are being interviewed.

Investigations are stressful for everyone involved – complainants, respondents and even witnesses. Providing wellness supports throughout the process can ease that stress.

Although there is no duty to provide parties with the report, there is a duty to provide outcomes under the OHSA. This is best accomplished through a conclusion meeting in which the findings are explained, including where necessary, explaining the applicable standard of proof and what constitutes harassment.

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Follow through on outcomes

If an outcome such as sensitivity training is ordered as part of an investigation, follow through to ensure that the condition is met.

We have seen too many instances where a respondent is ordered to undergo sensitivity training or individual coaching that doesn't end up happening.

Ensure perpetrators receive required education

2. Address systemic barriers

Too often efforts at eliminating harassment and discrimination focus on addressing the behaviour rather than the causes of it. Identifying, tracking and removing systemic barriers should form the backbone of efforts to drive cultural change.

Data tracking

Peter Drucker famously said: "what gets measured gets managed". That is true of harassment and discrimination as well.

It is important to track:

Track data to identify trends

- the number and type of complaints
- where those complaints are coming from (e.g., is there a problem with a particular unit)
- demographics of complainants and respondents including race and gender
- trends such as an increase/decrease in a particular type of complaint

Data is also important since workplaces with a lot of harassment are also likely to have other forms of bias present including stereotyping, discrimination and inequality.

It may also be helpful to share trends across the sector to provide benchmarks on where your particular service sits and to get a better sense of progress in tackling these issues.

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Apply an intersectional lens

Apply an intersectional lens when evaluating behaviour

Often, we speak about race, disability and other forms of prohibited discrimination as distinct and separate from gender, class, and sexuality. What's missing, according to lawyer and civil rights advocate, Kimberle Crenshaw, who coined the term "intersectionality", is that some people can be subjected to all of these at once, compounding their already disadvantaged and marginalized position within organizations and leading to double discrimination. As Crenshaw powerfully says, "If you see inequality as a 'them problem' or 'unfortunate other' problem, that is a problem".[12]

It is critical to view discrimination through an intersectional lens, recognizing that there are inherent biases against Black, Indigenous and persons of colour (BIPOC) as well as members of the queer and trans communities. This includes examining whether there is a workplace culture that permits microaggressions and condones and normalizes harmful "jokes".

Address institutional barriers
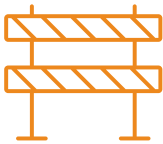
Address institutional barriers

Focus on diversity, equity and inclusion

To address and overcome systemic barriers:

- advise all employees of the resources and supports available to address bias and discrimination

- evaluate hiring and promotion practices to eliminate barriers: we frequently hear comments that the promotional process is an "old boys' club" and that the demographics of the existing leadership ranks are merely replicated while others complain that there is "reverse discrimination" with white men being shut out of the hiring and promotional processes

- provide equal access to both formal and informal mentorship

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[12] Please refer to the article published by UN Women on July 1, 2020 for further information: https://www.unwomen.org/en/news/stories/2020/6/explainer-intersectional-feminism-what-it-means-and-why-it-matters

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- review investigation reports and discipline decisions to determine whether unconscious bias has crept into the decision-making process

> " *The lack of diversity in powerful roles in institutions reinforces a workplace in which the dominant culture makes and enforces rules, leaving the organization vulnerable to abuses of power that can manifest in negative conduct and improper behaviors.*[13]

3. Raise awareness

It is critical to raise awareness not just of harassment but also of the behaviours that lead to it like microaggressions and incivility.

Implement a full suite of training programs

Training

No organization can "train away" harassment and discrimination. But it is a fundamental part of the respectful workplace toolbox. For it to work it needs to be focused on changing behaviour.

It also needs to be mandatory. Because when training is voluntary, those who need it most are least likely to attend.[14]

There are several types of training that should be included in the mix:

- *Skills-development training for mid-level leaders.* They are the linchpin in any efforts to eliminate harassment and discrimination but are often poorly equipped to do so. Teach them how to respond with specific examples and opportunities to practice. Providing them with a tip sheet to use when confronting difficult situations can also help.

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[13] *The Shield of Silence*, supra., at p.135
[14] Williams, Joan C. *Bias Interrupted*. Harvard Business Review Press, 2021, at p.28

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Provide service-wide respect training

- *Provide service-wide respect training*. This should be live as opposed to watching a "canned" video so that the presenter can gauge how the information is received, tailor the discussion and answer questions. The training should also focus on incivility and professionalism since those are the building blocks of a psychologically safe workplace. A discussion of gender norms and the impact on the workplace is also an important element of driving positive change.

Help members learn to be UP-standers

- *Bystander training.* Some agencies are exploring the ABLE (Active Bystandership for Law Enforcement) Project. Based in the U.S. it "helps prepare officers to successfully intervene to prevent harm and to create a law enforcement culture that supports peer intervention".

- Emphasize the importance of moral courage and being an UP-stander instead of a bystander.

Provide resolution conflict tools

- *Crucial conversations/difficult conversations training* to build the skills to handle interpersonal conflict before it festers and grows into harassment. This should be used for both interpersonal conflict and for leaders, whose jobs will inevitably include difficult conversations when holding people accountable.

Help members identify and disrupt bias

- *Implicit bias training*. This training should be focused not just on understanding bias but on disrupting it when it inevitably occurs. Stereotypes and bias are difficult to eliminate but raising awareness and changing behaviour is possible.

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"Canned", online learning is ineffective at changing behaviour: make it live

As noted above, it's not just the subject-matter of the training that matters. How it is conducted is critical. Poorly executed training is weak at best and damaging at worst. Establishing a shared understanding of harassment is important but the training should also be scenario-based with a focus on skills and scripts for addressing harassment and disrespect as a supervisor, bystander or recipient.

> " *...when trained correctly, middle-managers and first-line supervisors in particular can be an employer's most valuable resource in preventing and stopping harassment.*[15]

Clarify how far the workplace extends

Clarify how far the workplace extends: Sometimes harassment occurs while engaging in social activities outside work such as going out for drinks or playing sports. It can also occur on social media such as Facebook or WhatsApp chat groups. Make it clear that those activities may be considered the workplace and that expectations on respectful engagement transcend the four corners of the workplace.

4.   Transform Culture

Transforming culture is important but complicated. It is also not linear: some change will happen in spurts and sometimes there are setbacks. But a sustained effort can ensure ultimate success.

Leaders must act as the standard bearers for a respectful workplace

Leadership

Leaders need to be role models but sometimes they engage in destructive behaviours. This includes both engaging in harassment or disrespect themselves and condoning it by laughing or deciding it's not important enough to address. It is critical to reinforce the need for leaders to act in the moment, every moment of the day. And to hold them accountable when they don't meet that expectation.

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[15] *EEOC Task Force, supra*

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Make respectful engagement a performance criteria

One important strategy is making respectful engagement part of the performance evaluation process for leaders. This includes measuring their own behaviour against workplace values as well as how they prevent and address toxic behaviour within their units. For example, if there are repeated complaints, frequent requests for transfers and a high level of absenteeism within a unit, the leader could be tasked with fixing it and evaluated on efforts to do so.

> " *Leaders must embody the behavioral values of their organization as much as they must meet deadlines, improve products and services and manage people.*[16]

Hold people accountable

Hold people accountable in the moment, every moment of the day

Too often consequences aren't proportional to the behaviour. Harassment has a substantial, detrimental impact on victims and the workplace culture. The repercussions for participating should reflect that impact. Consequences that are too lenient don't deter the harasser or others from the behaviour and send a signal that it's accepted. And it causes people not to report it since they fear it won't result in any meaningful change.

> " *...if the goal is to foster a culture of civility and respect, it is necessary to create a climate where negative behaviors are not tolerated and clear standards are set regarding the way people interact with each other as colleagues.*[17]

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[16] Kusy, Mitchell, and Elizabeth Holloway. *Toxic Workplace!.* John Wiley & Sons, Inc., 2009 at p.99
[17] *The Shield of Silence*, *supra* at p.64

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Sweat the small stuff
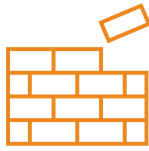
Promote civility and professionalism

Establish expectations for acceptable workplace behaviour

In conjunction with the above training, awareness campaigns on civility and respect and the importance of moral courage in eliminating harassment and discrimination can be useful. Setting boundaries and clear guidelines on what is not considered acceptable in the workplace will help individuals stay within the lines. For example, sexual banter and sexualized jokes sometimes become normalized. A best practice would be to make it clear that such conduct is not considered professional in the workplace, regardless of whether it is welcomed by others.

> *[O]rganizations cannot simply depend on federal guidelines and legalities in establishing policies about respectful behavior. The leadership of an organization must both determine what are unacceptable behaviors and set out the consequences of persons who consistently engage in them.[18]*

Make it safe to report

People are more likely to report harassment if they feel it is safe to do so

Be vigilant to ensure that confidentiality is maintained, and retaliation is prevented.

Let parties know that they have the right to be free of retaliation and let them know how to report it if it occurs. This includes witnesses who may also fear retaliation for participating.

And if there is a confidentiality breach or retaliation occurs, address it immediately and hold people accountable, to build trust in the process.

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[18] *Toxic Workplace!, supra.*

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Engage restorative practices

Several agencies have created workplace conflict resolution specialists or units to help resolve conflict before it festers into harassment. This can be effective as a means of quickly resolving issues in a way that enables people to continue to work together harmoniously.

Another practice is to conduct workplace culture assessments. These can be done organization-wide or for particular units where there have been reports of increased conflict, harassment or discrimination. Such assessments are effective at identifying root causes and determining a tailored response.

Help people resolve conflict before it festers and grows

Work closely with the police association

Encourage the police association to be part of the solution.

Eliminating harassment and discrimination is a shared goal and it can be more easily achieved by working closely with the police association. This can be particularly important with respect to workplace training initiatives, culture assessments and policy development.

Work with the police association to achieve positive change

Find the champions

We often focus on the bad actors – those who violate policies by harassing or disrespecting others. But we should also focus on the other end of the spectrum – the potential champions of a respectful culture. Empower and encourage them to help create a respectful and psychologically safe workplace.

Focus on the champions who can help drive positive change

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WORKING TOGETHER

At the end of the roundtable the discussion turned to where to go from here. There was consensus that the conversation was valuable and that working together is beneficial. Several participants noted the value of getting internal buy-in from the top to participate in this process.

Some suggestions on how to effectively work together include:

- having regular meetings and focusing on particular issues in-depth in each meeting (e.g., intake processes, workplace restoration, training and what a fair investigation process looks like)

- conducting a survey to determine key priorities for the deep-dive meetings

- establishing norms around best practices for eliminating and addressing harassment and discrimination

- sharing resources and data on trends

- determining best practices, to achieve consistency

- uniting to lobby for improvements to legislation

- educating adjudicators and arbitrators on the impact of harassment on individual victims and the workplace as a whole

CONCLUSION

While changing workplace culture and norms can be complex and challenging, by taking a multipronged and sustained approach, positive change is possible.

> **"**
> *As the myriad recommendations and research examples indicate, there is a roadmap for eliminating harassment and other negative behaviors in the workplace, and it starts with changing workplace culture. The specific ways to accomplish this change may vary from workplace to workplace, but the answers exist and are accessible to any organization with engaged leaders willing to commit to the effort.[19]*

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[19] *Ibid*, at p.173

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ABOUT BERNARDI

We are a group of lawyers, investigators, conflict resolution specialists and HR professionals whose mission is to create psychologically safe and healthy workplaces.

For more than 25 years we have been on the ground working with thousands of employees, supervisors, managers, union representatives and HR professionals. Through that work we have developed a deep understanding of the different perspectives and challenges of each group and workplace culture we serve.

We have a strong background in police culture, gained through our work assisting multiple police agencies across the province of all sizes by:

- conducting respect-in-the-workplace training
- training leaders on how to create and maintain a harassment-free workplace
- providing training on diversity and inclusion, unconscious bias and anti-racism
- investigating complaints of sexual and gender-based harassment, bullying, workplace violence, racial and systemic discrimination, and code of conduct violations, among others
- developing policies on respect and professionalism in the workplace
- reviewing and advising on harassment and respect policies and procedures
- training internal workplace investigators
- conducting individual sensitivity training
- providing coaching, conflict resolution and mediation
- conducting workplace culture assessments (including surveys and focus group meetings)

Transforming workplaces so that people and organizations can thrive

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Appendix

PARTICIPATING SERVICES

These police services, among others, participated in the November 15, 2021 roundtable:

- Barrie Police Service
- Halton Regional Police Service
- Hamilton Police Service
- Ontario Provincial Police
- Ottawa Police Service
- Peel Regional Police
- Toronto Police Service
- Waterloo Regional Police Service
- York Regional Police