

MELROSE PARK POLICE DEPARTMENT Harassment-Free & Diversity Workplace Awareness Training for Supervisors

**Presented by Michael Bersani and Anthony Becknek
Hervas, Condon & Bersani, PC**



• Training Objectives

- Know the definition of sexual harassment
- Know the definition of a hostile work environment
- Be familiar with examples of prohibited behaviors
- Be familiar with MPPD's discrimination and harassment policies
- Know how to react if you receive a complaint or witness someone being harassed
- Understand how to stop harassment and what the next steps are.

- Illegal Harassment, Discrimination and Violence is Prohibited by State and Federal Laws
 - Title VII of the Civil Rights Act (EEOC)
 - Illinois Human Rights Act (IDHR)
 - Americans with Disabilities Act
 - Age Discrimination in Employment Act
 - Pregnancy Discrimination Act
 - Melrose Park Police Department Standard Operating Procedures

- Types of Discrimination

- Title VII

- It is a civil rights violation to discriminate against an employee on the basis of race, color, religion, national origin, sex.
 - It is a civil rights violation to retaliate against an employee who complains about discrimination, or participates in an employment discrimination investigation or lawsuit.

- IHRA

- It is a civil rights violation to discriminate against an employee because of his or her race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, sexual orientation, pregnancy, or unfavorable discharge from military discharge in connection with employment.

- IHRA (continued)
- It is a civil rights violation to retaliate against a person because he or she opposed unlawful discrimination or harassment, made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the act, or because he or she has requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the act.

- Other Types of Retaliation
 - Union or Non-Union Membership
 - Issues with Police Board or Fraternal Order of Police
 - Whistleblower
 - Workers' Compensation issues or work related injuries
 - Political Speech or Affiliation

- What is harassment?
- Behavior which has the effect of humiliating, intimidating, or coercing someone through personal attack.
- Any behavior that is unwelcome, unwanted or unsolicited where the recipient regards it as offensive or undesirable.
- Behavior that causes the recipient to be embarrassed, uncomfortable, and cause distress.



- What is Sexual Harassment?
- Unwelcome sexual advances, requests for sexual favors and other verbal behavior or physical conduct of sexual nature when:
 - Submission to such conduct is made an implicit condition of an individual's employment;
 - Submission to or rejection of such conducts affects employment opportunities; or,
 - Such conduct interferes with an employee's work or creates an intimidating, hostile or offensive work environment.

- Breaking down Conduct

- Conduct is NOT sexual harassment if it is welcome. For this reason it is specifically important to communicate (either verbally or in writing) to the harasser that the conduct makes you uncomfortable and you would like the actor to stop.
- However, sexual contact may create a hostile work environment even though it is not unwelcome between the two involved.

- Breaking Down “Sexual Nature”
 - Verbal/Written
 - Emails; Texts; Sexual jokes; Spreading Rumors
 - Nonverbal
 - Derogatory gestures; facial expressions; staring
 - Physical
 - Impeding or blocking movement; inappropriate grabbing, touching or patting.
 - Visual
 - Posters; drawings; cartoons; screensavers.



- Of a “Non-Sexual” Nature
 - Non-sexual conduct may also be sexual harassment if you are harassed because you are female, rather than male, or because you are female, rather than male.
 - For example, a female police officer’s equipment is often hidden from her or removed from her foot locker to an unknown location.

- Conduct must be “Severe or Pervasive”
 - The conduct of a harasser must be either severe or pervasive (length of time).
 - For example, although a single unwanted request for a date or one sexually suggestive comment might offend you and/or be inappropriate it may not be sexual harassment.
 -
 - However, a number of relatively minor separate incidents may add up to sexual harassment if the incident affect your work environment.

- Melrose Park Police Department
Discriminatory Harassment Policy
- Section 328.3.1
 - “The Department prohibits all forms of discrimination including any employment-related action by an employee that adversely affects an applicant or employee and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classification protected by law.”

- Melrose Park Police Department Discriminatory Harassment Policy
- Section 328.3.1 (continued)
 - Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based up that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment."

- Melrose Park Police Department Discriminatory Harassment Policy
- Section 328.3.1 (continued)
 - Conduct that may be harassment:
 - Making derogatory remarks;
 - Crude or offensive statements;
 - Making slurs or off-color jokes;
 - Stereotyping statements;
 - Making or passing along indecent gestures, pictures, cartoons, posters or other material;
 - Making inappropriate physical contact;
 - Using written material or department equipment to transmit or receive offensive material, statement or pictures.

- What is Sexual Harassment per MPPD?
 - Melrose Park Policy 328.3.2
 - Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation;
 - Submission to, or rejection of such conduct is used as the basis for any employment decisions affecting the member;
 - Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile or offensive work environment.

- Types of Harassment
 - Quid Pro Quo Harassment
 - “This for that”
 - A supervisor demands sexual favors in return for better treatment of a subordinate, or threatens the subordinate with firing, demotion, or transfer unless sexual favors are given.
 - Supervisor changes job roles or performance expectations after subordinate refuses repeated requests for a date or cancels a previous romantic relationship.

Quid Pro Quo



- Hostile Environment Harassment
 - Behavior of a nature that creates an offending, intimidating, or hostile work environment for another employee.
 - Hostile work environment is based on a protected class, and is an environment that is offensive to employee and would be offensive to a reasonable person.

- Hostile Work Environment (continued)
 - Subjective **and** Reasonable Person standard
 - **Subjective**
 - Work environment is offensive to employee and the conduct is unwelcomed.
 - **Reasonable Person Standard**
 - Would someone within your family be offended if someone else made this statement or took this action?
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- **Personal Intent?**

- I did not intend to harass her/him!
- It does not matter because the intent of the harasser is irrelevant!
- If the person accused of the harassment “should have known” the behavior was unwelcome, he/she may be responsible—even for unintentional harassment (similar to objective standard).

- Examples of behaviors that create a hostile work environment:
 - Leering, staring or gesturing inappropriately;
 - Inappropriate touching, hugs, petting, pinching;
 - Suggestive or demeaning pictures, posters, calendars or cartoons;
 - Comments about body parts or sex life;
 - Off color jokes or teasing.

- Examples of behaviors that create a hostile work environment(continued):
 - Racial slurs, epithets and stereotypes;
 - Practical jokes that embarrass or insult someone;
 - Humiliating an employee in front of co-workers;
 - Vandalism of personal property.

- Hostile Environment Harassment
 - When courts are likely to find harassment:
 - Pornography
 - Vulgar Language
 - Degrading comments
 - Sexual propositions
 - Sexual jokes or touching
 - Sexually suggestive music

- Hostile Work Environment

- A single, severe incident, such as sexual assault, could create a hostile work environment.
- However, more commonly a hostile work environment is created by a series of incidents similar to sexual harassment.

- Same Sex Discrimination/Harassment
 - Can you have sexual harassment or discrimination between two males or two females?
 - In 1998 the Supreme Court indicated that same sex harassment is dealt identically to all other sexual harassment.

◦ Third Party Harassment

- Behavior not found offensive by some employees can facilitate an offensive environment for other employees.
- A group of employees talking about each others sex lives in front of an individual who feels uncomfortable about such discussion.

- What is NOT Harassment?
 - Legitimate Management Intervention
 - Appropriate performance reviews, counseling, discipline are NOT harassment, unless they are done in retaliation.
 - If your behavior upon attempting to counsel or review a subordinate officer becomes abusive, hostile, sexual or intimidating, it can become harassment and is violation of the Melrose Park Police Department Standard Operating Procedure.
 - Consensual relationships between two employees is not harassment as long as everyone involved is in agreement.

- Who Can be the Victim of Harassment?
 - **ANYONE!!!!**
 - The victim can be anyone affected by the conduct, not just the specific individual at whom the offensive conduct is directed.
 - Therefore, it could be, any man, woman, managers, supervisors, colleagues, community members, elected officials or even the Chief of Police.

- Who is responsible? Who can be held accountable?
- Employees and Supervisors can be personally liable for damages under state and federal laws, including punitive damages.
- Officers and Supervisors can be disciplined under the MPPD Disciplinary Policy, specifically
 - 340.3.3
 - (a) discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

- Harassment

What should you do as fellow officers?

MPPD Policy 328.4

“Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief of Police/Police Administrator, Director of Human Services or the Mayor.”

- Harassment

What you should do as supervisors?

MPPD Policy 328.4.1

Each supervisor and manager shall:

- (a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including sexual harassment or retaliation.
- (b) Take prompt action within their works units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensure that subordinates understand their responsibilities under this policy.
- (d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Notify the Chief of Police/Police Administrator or Director of Human Services in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

- Harassment
Investigation of Complaints

MPPD Policy 328.5

“Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members should take prompt and reasonable steps to mitigate or eliminate and continuing abusive or hostile work environment. It is the policy of the department that all complaints of discrimination or harassment shall be fully documented, and promptly and thoroughly investigated. The participating or opposing member should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

Supervisors have a duty to inform, along with the harassed party, the harasser that the behavior is unwelcome and should cease immediately.

- Formal Investigation Process

MPPD Policy 328.5.2

- If a complaint of harassment is not able to be resolved through the informal process, a formal investigation will commence into the alleged harassment and shall include full and complete cooperation from all supervisors.
- No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others or for offering testimony or evidence in any investigation.
- Formal investigation of the complaint will be confidential to the extent possible.

- Practically Speaking, What Should You Do When Encountering Harassment?
- Directly and clearly tell the harasser to stop:
 - Verbally, and draft a memo/letter to cease.

Report the harassment up the chain of command, i.e. Lieutenant or Deputy Chief/Chief of Police.

Employees or Supervisors may file a formal complaint with the IDHR or EEOC

- Practically Speaking, What Should You Do When Encountering Harassment?
- PREVENT RETALIATION!!!
 - No person who makes a complaint in good faith will be retaliated against.
 - Efforts must be made by the supervisor to inform the alleged harasser that they will be subject to discipline if they retaliate against the accused.
 - This must be balanced with keeping the confidentiality of the complaint.

- Practically Speaking, What Should You Do When Encountering Harassment?
- Possible additional supervisor steps:
 - Initial investigative interview with harassed party;
 - Initial investigative interview with harasser;
 - Draft a memo;
 - Create a list of witnesses;
 - Create a list of documents or potential evidence;
 - Procure that evidence if it is immediately available (i.e. a poster on a wall);
 - Assess potential suggestions or remedies;
 - Obtain any other or additional information.

- Supervisory Questions to Ask!!!
 - How many times has an issue occurred?
 - How long has the harassment been going on?
 - How many others, if any, have been sexually harassed?
 - What is the exact conduct that is being complained of?
 - Were there any witnesses to the harassment?
 - Is there any documentation or evidence of the harassment (photos/emails/texts)?

- Retaliation Standard
- “Materially Adverse Action”
- A materially adverse action could take the form of:
 - Schedule change
 - Reassignment
 - Supervisor exclusion of employee
 - Indefinite suspension without pay
 - Assignments outside of the job description
 - Disciplinary investigations
 - Threats of disciplinary investigation
 - Interference with benefits
 - Termination

- How to Detect Illegal Harassment and Discrimination
- If you see behavior (either from yourself or another officer) that is making one or more employees uncomfortable (jokes, teasing, comments), put a stop to it fast.
- Ask yourself if you are treating employees (female/male; Hispanic/white) similarly in similar situations?
 - Are they receiving the same back-up on calls?
 - Are they receiving the same perks, off-days, requests, as other officers?
 - Are you making any single employee's job more or less difficult?
 - If you have encountered a particular scenario, have your actions always been fairly consistent across the board irrespective of the individuals characteristics (race/gender/age/sexual orientation)?

- What the Courts have Held? (VIDEO)



- *Passananti v. Cook County*
- A female employee in Cook County was repeatedly and angrily referred by her boss as a “bitch” to her face and spread rumors about her work ethic and attitude to other co-workers, along with a rumor that she was sexually involved with a coworker.
- The female employee was then temporarily transferred and ultimately sustained a five day unpaid suspension.
- Hostile Work Environment?
- What would you do if you heard an officer spreading rumors about another officer?

- *Burns v. McGregor Electric Ind.*
- Female employee was called terms such as “bitch,” “slut,” and “cunt” behind her back, but not to her face. However, female employee was never propositioned sexually, touched offensively, or harassed by sexual innuendo. Nor were there any other characteristics used to allege sexual harassment.
- Could female employee make out harassment claim based on her sex?

- *Jones and L'Heureux v. Cary Fire Prot. Dist.*
- Female paramedics alleged that on two occasions they were groped, and that other fire protection district employees made lewd jokes and left pornographic material lying around the fire house.
- Are these isolated incidents enough for a sexual harassment claim?

- *Meritor Saving Bank v. Vinson*
- The Plaintiff engaged in voluntary sexual relationship with a supervisor, but after the relationship ended, she was terminated for time and attendance issues.
- Did the employer retaliate against Plaintiff if her performance stayed nearly the same?



- *Hrobowski v. Worthington Steel*
- Employee was repeatedly subjected to hearing the work "N____," and other employees consistently made inappropriate comments about property values decreasing when African-Americans move into the neighborhood.
- Hostile Work Environment?
- What would your next steps be if an officer informed you of these complaints?

- *Garcia v. Illinois State Police*
- Garcia alleged that she was discriminated against at the academy based on her gender and race because her superior asked angrily in front of the class whether she was Hispanic or Indian, and told her that the academy was not right for her and that she was not “the right profile.”
- However, her employer argued that Garcia had several disciplinary infractions including disregarding the chain of command, and she was terminated by the academy staff for her inability to follow directions, failure to accept responsibility, untruthfulness and insubordination
- She sued for race and gender discrimination. Did she win?

- *Hurley v. Atlantic City Police*
- Plaintiff female officer was subject to sexually derogatory comments, was transferred to an undesirable position, and was the subject of sexually obscene drawings on several walls and inappropriate pictures were left on her desk. Defendant police captain witnessed much of the harassment, did not further encourage it, yet did nothing to stop it.
- What should you do as a supervisor?
- Potential liability? Female police officer won \$700,000 in punitive damages from both the officers who harassed her, and the police captain!!!!

- *Zayadeen v. Abbott Molecular*
- Arabian employee was subjected to harassment when his employees nicknamed him "Borat," called him "Borat," and encouraged the rest of the employees to call him "Borat."
- Harassment?
- What should you do if you see a fellow supervising officer partaking, or failing to address this type of harassment or hostile work environment?

- *1212 Restaurant Group, LLC v. Alexander and City of Chicago Commission of Human Rights*
- Multiple employees called Plaintiff “fag,” “sissy,” “homo,” “queer,” perceiving he was homosexual when he was in fact not. He sued for hostile work environment.
- Can you not be homosexual, but sue for sexual orientation discrimination under a hostile work environment theory?

- *Lewis v. City of Chicago*
- Officer presented evidence that the department refused to send her to perform relief duty in DC based on her sex. Lieutenant - involved in making decision - said "it was going to be a working trip, and he thought it would be dangerous and that [she] would thank him for it later."
- Plaintiff claimed she lost overtime pay and experience working a large event, which could have created additional opportunities.
- Is loss of overtime pay and experience a potentially "materially adverse employment action?"
- Is this sex discrimination?
- How would you handle this?

- Hazing?
- Bryne v. City, L.A. Co. Sup'r Ct.
- Female fire dept. paramedic was forced to shave her pubic hair in hazing ritual.
- Are forms of hazing when a recruit becomes an officer potentially harassment, hostile work environment and retaliation?
- What are the steps to be taken if you see activity considered to be hazing?

- What would you do?
 - A white male officer is about to marry an African-American woman. You overhear several other officers disapproving of interracial relationships. The comments are derogatory and racist, but they are being made regarding the future wife of an officer, not the officer.
 - Is this a potentially hostile work environment or harassment?
 - For who?
 - What are the proper steps to take?

- What would you do?
- A male officer comes to you and informs you that a female officer has asked him on a date on one occasion, to which he declined because he is married. He believes she then suggestively “rubbed” up against his buttocks on one occasion, and groped his chest on another.
- Before taking this complaint to a higher authority, could this simply be a misunderstanding? What steps should you take to find out?

- What would you do?
- A male supervisor has a sexually explicit screensaver on his computer, as well as one provocative poster on the back of his door. You overhear a female officer inform another officer that they do not want to go into the supervisor's office because of this material as they feel uncomfortable, even though the supervisor has never made any type of sexual advance towards the female officer?
- After the issue is discussed, the supervisor changes the shift of the officer to midnights, denies her requests for time off, and informs officers on her shift to not provide her back-up.
 - Is this retaliation?
 - What are your next steps?

- Any Questions?????
- Thank you for time in allowing us to provide you this information relative to sexual harassment, retaliation and hostile work environment.
- If you have any questions or concerns moving forward, please do not hesitate to contact us.
- Michael Bersani, mbersani@hcbattorneys.com, 630-860-4343
- Anthony Becknek, abecknek@hcbattorneys.com, 630-860-4347