



**House of Representatives**  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

**HOUSE DEMOCRATIC POLICY COMMITTEE HEARING**

**Topic: #MeToo**

**Free Library of Northampton Township – Richboro, PA**

**August 27, 2018**

**AGENDA**

2:00 p.m. Welcome and Opening Remarks

2:10 p.m. Panel One:

- Penelope Ettinger  
Executive Director  
Network of Victim Assistance (NOVA)
- Christa Hayburn  
Coordinator of Marketing and Social Media Communications  
Women Organized Against Rape

2:40 p.m. Panel Two:

- Samantha Koch  
Policy Director  
Governor Tom Wolf's Office of Policy and Planning
- Terry Fromson  
Managing Attorney  
Women's Law Project
- Nadia Hewka  
Staff Attorney in the Employment Unit  
Community Legal Services of Philadelphia

3:20 p.m. Closing Remarks

Testimony for the Pennsylvania General Assembly- House of Representatives  
Democratic Policy Committee  
August 27, 2018  
Richboro, PA

**Penelope S. Ettinger**  
**Executive Director**  
**Network of Victim Assistance**  
**2370 York Road, Suite B1, Jamison, PA 18929**  
215-343-6543  
Fax: 215-343-6260  
[www.novabucks.org](http://www.novabucks.org)  
[penny@novabucks.org](mailto:penny@novabucks.org)

Good afternoon Chairman Sturla, Rep. Tai and members of the House Democratic Policy Committee. On behalf of the Network of Victim Assistance in Bucks County (NOVA), I welcome the opportunity to provide comments today on the issue of sexual assault and harassment and how the impact of the #MeToo movement can inspire all of us to work to prevent sexual violence in all its forms.

My name is Penny Ettinger and I am the Executive Director NOV. NOVA is the comprehensive crime victim service organization for Bucks County. A private non-profit, community-based organization founded in 1974, NOVA's mission is to support, counsel and empower victims of sexual assault and other serious crimes in Bucks County and to work to prevent and eliminate violence in society through advocacy, training, community education and prevention programs.

In FY 2018, NOVA staff provided direct services to over 3,600 victims and their family members. Half of these cases were sexual assault of children and adults. We provide a continuum of services including the Sexual Assault Nurse Examiner (SANE) for individuals who are sexual assault victims who come in to hospital emergency departments after an assault; the Children's Advocacy Center which provides the forensic interviews for children who have been reported to be sexually abused or severely physically abused. Core direct services include trauma focused professional counseling and victim advocacy. In addition, we run a 24-7 victim hotline and an array of ancillary services for victims. In addition to direct services, NOVA provides child abuse and violence prevention education programs for children, teachers, parents and professionals in Bucks County and throughout the Commonwealth. In the last fiscal year, NOVA presented over 1,000 prevention programs to nearly 25,000 children and approximately 500 professional and community based trainings to adults.

In the (ten months) short period of time that has elapsed since Ashley Judd's accusations of sexual harassment by Harvey Weinstein were reported in the nearly a year ago, the rise of the #MeToo movement continues to shine a light on the pervasive problem of sexual assault and harassment in our society. A time line published in the Chicago Tribune highlights multiple reports of accusations of sexual harassment or sexual assault against 28 high profile individuals, from the worlds of entertainment, restaurants, media, classical music, theater, private business, government, universities and athletic programs. (1)

This is not an exhaustive list but this synopsis of reports does reveal that many victims were women and girls and that men and boys were also subject to sexual harassment and violence, ranging from lewd comments, to harassing emails, to criminal sexual assault, including sexual assault of children. Many victims delayed making a report – for adults they feared that they wouldn't be believed or that the perpetrator would retaliate. When victims did push back or make reports, they suffered the consequences: careers ruined, loss of their livelihood, emotional stress, depression and anxiety that result from the

trauma of sexual harassment and assault, and oftentimes, isolation from co-workers and peers. We applaud the courageous women, girls, boys and men who called out their perpetrators and who inspired other victims to do the same-and just by making their experiences public or sharing on social media, have provided affirmation and validation for all victims, even those who may choose not to report.

The Pennsylvania General Assembly, like many other state legislatures, is considering changes and improvements to existing policies and laws and new legislation. In April 2018, NOVA counselor Oana Nechita was invited to present testimony before the House Labor and Industry Committee's Hearing on Harassment and Sexual Misconduct in the Workplace. Oana shared her experience providing support to a victim of sexual harassment. This client, a young woman, was struggling to stay safe at her first job out of college, where she was subject to sexual harassment by her foreman. She'd made many attempts to fight back against her harasser by making clear that his behavior was unwelcome. She sought out co-workers but found them un-supportive. She reported her concerns to her team supervisor, but was told to "grow thicker skin". After numerous reports and suffering a job demotion, she was at a loss, humiliated and blaming herself for her situation. She sought counseling services at NOVA, and, with support explored her options. Like many victims, she did not believe that filing a formal complaint with HR or with the EEOC would be helpful-she feared losing her job and decided instead to seek other employment. Determined to regain control of her life, she opted to take a job that paid less and moved to another part of the country.

Imagine what a different story this might have been if policies and best practices had been in place at her job. In spite of the awareness being raised by the #MeToo movement, until policies and protections are in place, this story will continue to be the experience for many working people here in the Commonwealth and across the United States. Recent studies confirm the common experience of many workers.

~Eighty percent of women and 43 percent of men report experiencing some form of sexual harassment and /or assault in their lifetime (2)

~Sixty percent of women say that they have experienced unwanted sexual attention or sexual coercion, OR sexually crude conduct or sexist comments in the workplace (3)

~Upwards of eighty percent of people who experience sexual harassment never file a formal legal charge, and approximately 70 percent of employees never even complain internally (4)

~Sexual harassment has damaging consequences for a person's psychological and economic well-being, with women facing greater financial difficulty and job disruption (5, 6)

With the package of bills now before the General Assembly, we believe that Pennsylvania is moving in a positive way to boost protections for all workers. Legislation to extend the coverage of the Pennsylvania Human Relations Act will help to protect workplaces with less than 4 employees and vulnerable workers in domestic and agricultural jobs. Additional protections for these workers, and including interns and volunteers, also makes sense. While interns and volunteers are often left out of the circle of protection as they are not considered employees, they are at risk for sexual harassment.

Shifting responsibility to employers to adopt policies and procedures and provide training for employees on discrimination, harassment and retaliation levels the playing field for volunteers and interns. Requiring employers to post fair practices and provide definitions and examples of discrimination and harassment helps to equip all employees to partner in a workplace culture that values safety and respect. Having worked with victims of sexual assault and harassment, staff in rape crisis centers are well aware of barriers to reporting and why victims might delay a report. Making sure that the timeline for a report to

the PA Human Relations Commission is extended recognizes the difficulties victims may face and can allow them time to process their experience and seek support during the reporting process. And, with the biggest General Assembly in the country, the legislation to upgrade procedures and protections sends a clear message to all elected officials, staff and interns in the Capitol- your safety in the workplace is a priority in Pennsylvania.

We have been involved in primary prevention education for many years-and have offered programs to reach students and adults in our community to encourage respect, minimize behaviors that are threatening and dangerous, and to provide bystanders with tools so that they too can become involved with positive intervention. We use these programs to teach preschoolers about how to keep their bodies safe and get help from a trusted adult. Elementary school children learn about how to stand up to bullies. Research from the Centers for Disease Control explored the overlap between traditional bullying, which if unchecked in adolescence, has a correlation with future sexual violence perpetration. (7) Our program for middle school students raises awareness about gender and bullying/harassment with role play practice. We've developed a program to model bystander/upstander behavior, and team with high school students who are trained to present to younger students. All of these programs are indicative of the need for a cultural change. It is not just legislation that will make change. And therefore, I would recommend that the legislature in addition to legislation that ensures a safe workplace, that you promote prevention education and training as part of school curriculum that begins shift the culture of respect, equality and appreciation of diversity.

As we learn more about how to encourage behaviors that support respect, inclusion and safety, we are drawn more and more to engaging bystanders in violence prevention. We are following a recent study from the University of Wisconsin-Oshgosh to train business students as they prepared for internships. Preliminary results showed that "presenting the bystander role as a positive intervention was more appealing to students and increased students' knowledge about sexual harassment and improved their abilities to identify sexual harassment in internship scenarios." (8)

We have many students in our county who are graduating from high school, heading to their first jobs or off to college and internship placements. Passing these bills sooner rather than later will help to transform their future workplaces. We also think it is important to prepare our youth before they step into the work world and so would ask that the legislature look for opportunities to include awareness of sexual harassment and sexual assault at the middle and high school grades.

We look forward to partnering with our elected officials, members of our communities, public and private employers and our fellow panelists in working to create a culture that supports the safety, dignity and diversity of Pennsylvania's workers. Thank you again for the opportunity to participate in this hearing.

## References

- (1) Johnson, Christine & Hawbaker, KT. "*#MeToo: A Timeline of Events.*" The Chicago Tribune, August 20, 2018

- (2) Stop Street Harassment, Raliance, & Center on Gender Equity and Health, *A National Study on Sexual Harassment and Assault* (Reston: SSH, 2018)
- (3) Equal Employment Opportunity Commission, *Select Task Force on the Study of Harassment in the Workplace: Report of Co-Chairs* (Washington, D.C.: EEOC 2016)
- (4) EEOC, 2016
- (5) Ibid
- (6) Heather McClaughlin, Christopher Uggen, and Amy Blackstone, *The Economic and Career Effects of Sexual Harassment on Working Women* (Gender & Society, 2017)
- (7) Centers for Disease Control, Division of Violence Prevention, "ASAP The Bully-Sexual Violence Pathway in Early Adolescence"
- (8) NACE Staff, "*Sexual Harassment Training for Interns.*" National Association of Colleges and Employers, E-Newsletter, February 19, 2018

**Written Testimony of Samantha Koch, Policy Director  
Governor's Office of Policy and Planning  
Before the House Democratic Policy Committee  
Monday, August 27, 2018, 2:00 p.m.**

Representative Tai and members of the House Democratic Policy Committee, thank you for the opportunity to testify this afternoon. As a member of the Governor's Office of Policy and Planning, I appreciate the chance to discuss the Wolf Administration's efforts to ensure that all Pennsylvanians can live, learn, and work in places that are free from sexual violence and harassment.

Impact of Sexual Violence, Harassment, and Discrimination on Students, Workers, and Communities

Sexual violence and discrimination should not be part of any person's education or career. Unfortunately, data suggests that these experiences happen frequently and often go unreported and unaddressed.

- A recent survey found that 81 percent of women and 43 percent of men have experienced some form of sexual harassment in their lifetimes, with 38 percent of women reporting harassment in the workplace.<sup>i</sup>
- Sexual harassment occurs across all industries and happens more frequently in sectors and occupations with high concentrations of low-wage workers, who are disproportionately women.<sup>ii</sup>
- Long before they enter the workforce, nearly 20 percent of girls between the ages of 14 and 17 experience sexual assault, and more than one in five women and one in 20 men experience sexual violence during their college years.

These statistics are troubling, not only because of their overwhelming scale, but because each number represents an individual who has experienced an egregious violation of personal privacy, autonomy, and respect. The impacts of sexual harassment and sexual violence are significant, both for individuals who are victimized and for the broader community. Research suggests that experiencing sexual harassment or sexual violence can have significant physical and mental health consequences that can impact job or academic performance and lead to decreased productivity, disengagement, and dropping out or turnover – creating significant costs not only for individuals but to the broader economy.<sup>iii</sup>

Most people who experience sexual harassment or sexual violence do not report these experiences to authorities – such as employers, school or campus officials, or law enforcement – or seek formal action, such as filing a complaint. Analysis from the Federal Equal Employment Opportunity Commission suggests that the overwhelming majority – 70 percent – of incidents of workplace harassment or discrimination are not reported formally. And when formal action is sought, action is not always taken to effectively address the behavior and prevent its recurrence.<sup>iv</sup> What's more, while sexual harassment and discrimination occurs across all industries, it is more frequent in those dominated by low-income workers – who are predominantly women – where the decision to come forward and report, potentially risking their jobs and much-needed paychecks, can be especially precarious.<sup>v</sup>

As we have seen through movements like #MeToo, survivors of abuse and harassment are bravely stepping forward to share their stories. However, for every survivor that makes that choice, there are countless others who stay silent, worried they will not be believed or that saying something could lead to more harm than good. Analysis from the Federal Equal Employment Opportunity Commission indicates that a fear of backlash is unfortunately well-founded: an estimated 75 percent of individuals who report workplace harassment incidents also experience retaliation.<sup>vi</sup>

## Recent Efforts to Combat Sexual Violence, Harassment, and Discrimination in Pennsylvania

More action is needed to ensure that Pennsylvanians do not experience harassment or abuse where they work or where they learn. Over the past two and a half years, the Wolf Administration has engaged hundreds of individuals, including students, educators, employers, advocates, healthcare personnel, researchers, campus safety and law enforcement officials, and policymakers, to identify prevention and response efforts that help break down the barriers that prevent many who experience violence, harassment, or discrimination from coming forward to seek assistance and support.

### **Sexual Harassment and Discrimination Policy Reforms**

Last fall, Governor Wolf announced efforts to improve reporting and response efforts for commonwealth employees, including the initiation of a review of current workplace discrimination policies and opportunities to update training and supports to align with best practices. The Wolf Administration also launched a new [webpage](#) providing the public with information about reporting sexual harassment or discrimination to the Pennsylvania Human Relations Commission and the Federal Equal Employment Opportunity Commission, as well as information and resources from victim's rights groups.

Recognizing the need to ensure protections for all workers in Pennsylvania, earlier this spring, Governor Wolf joined with House and Senate Democrats to propose a package of reforms to strengthen protections against sexual harassment and discrimination in workplaces across the commonwealth.

### ***Workplace Reforms***

- **Ban mandatory non-disclosure agreement:** Forcing victims to sign non-disclosure agreements in cases of sexual assault and harassment helps serial predators to continue their patterns of abuse. Governor Wolf supports legislation if amended that would prohibit mandatory non-disclosure agreements unless the victim voluntarily agrees to include one. *SB 999 (Schwank)*
- **Protect more workers:** All employees should be protected, regardless of the size of the employer or the type of their job. Today, these protections are only given to those who work for an employer with at least four employees. Governor Wolf supports reducing the threshold to one employee and extending protections to independent contractors, interns, and full-time nannies, housekeepers and other domestic workers. *SB 1146 (Farnese), SB 1148 (Tartaglione), SB 1149 (Williams), HB 2280 (Madden) and HB 2282 (Rabb)*
- **Workplace training:** This legislation would require trainings for employees and supervisors to prevent discrimination and harassment for all employees and employers must display discrimination and harassment protection rights in the workplace. *SB 1147 (Fontana) and HB 2283 (D. Costa)*
- **“PA Fairness Act”:** Governor Wolf continues to call for the General Assembly to pass the PA Fairness Act to prohibit discrimination based on an individual's sexual orientation or gender identity or expression. *SB ## (Farnese and Browne) and HB ## (Frankel)*

### ***Legal System Reforms***

- **Extend statute of limitations:** Some victims and whistleblowers can be afraid to come forward. To encourage reporting, the amount of time victims have to file a discrimination or whistleblower complaint should be extended from only 180 days to two years. *SB 1146 (Farnese), SB 1150 (Haywood), HB 2284 (O'Brien) and HB 2286 (Davidson)*
- **Right to a Jury Trial:** Victims and whistleblowers should have the option for a jury to hear their case in state court. *SB 1146 (Farnese) and SB 1150 (Haywood)*

- **Punitive Damages:** Pennsylvania, through the Pennsylvania Human Relations Act and the Whistleblower Law, should join other states, like New Jersey and Ohio, that allow victims and whistleblowers to seek punitive damages in workplace discrimination cases. *SB 1146 (Farnese)*

### ***State Government Reforms***

- **Sexual Harassment Prevention Task Force:** Governor Wolf and House and Senate Democrats have called for the creation of a task force to bring together victims' rights organizations, government officials and others to make recommendations to prevent sexual harassment and discrimination in the workplaces. *SR 327 (Blake)*
- **Standards for Lobbyists:** The state Capitol must be free of sexual harassment and discrimination for employees and the public. Governor Wolf is calling for legislation that requires lobbyists to go through training for ethics and discrimination and holds them accountable for violating discrimination protections. *SB 1151 (Brewster) and HB 2285 (Snyder)*

Governor Wolf also secured an additional \$1.3 million in funding to strengthen the understaffed Human Relations Commission in the state's enacted 2018-19 budget to investigate discrimination and harassment cases. These additional resources will allow the Commission to hire an additional six employees to help process complaints.

### **Addressing Campus Sexual Assault through "It's On Us PA"**

In addition to this work to create safer workplaces for all Pennsylvanians, the Governor has also charged his Administration with addressing sexual violence in schools and on campus. In 2016, Governor Wolf launched "It's On Us PA," the first statewide campaign to address sexual assault in schools and on college campuses. Thousands of Pennsylvanians, including education leaders, have signed the "It's On Us" pledge, committing to doing their part to help end sexual violence.

Last September, the Governor partnered with members of the House and Senate to announce the introduction of a bipartisan ["It's On Us PA" legislative package](#) that would further enhance efforts to provide remove barriers and improve supports.

In partnership with the General Assembly, the Governor also secured \$1 million in each of the last three state budgets for evidence-based prevention, reporting, and response systems to address campus sexual assault. Since its inception, the Governor's It's On Us PA Grant Program has reached more than 87,000 students and 16,000 professional staff on college and university campuses across the commonwealth through awareness and training programs, improved reporting systems, and other critical supports for survivors and campus community members.

### **Strengthening Protections for Survivors of Domestic Violence**

As part of his broader efforts to improve safety and well-being of all Pennsylvanians, the Governor has also called for action from the House on a bipartisan, comprehensive domestic violence legislative package that passed overwhelmingly in the Senate earlier this spring, which would strengthen protections and provide improved options and resources for victims of domestic violence.

### **Other Work to Expand Protections for Pennsylvanians**

Beyond these efforts, the Governor has also championed efforts to provide fair wages and working conditions for all Pennsylvanians, including increasing protections against discrimination. The Governor continues to call on the General Assembly to increase the minimum wage and has proposed overhauling Pennsylvania's overtime rules to increase the wages of middle-class and working-class salaried workers.

In June 2018, the Governor also signed an executive order addressing the gender wage gap and promoting equal pay for equal work for management-level employees in the commonwealth. The Governor also called on the General Assembly to take action and support legislation to strengthen Pennsylvania's equal pay law protections to extend to all workers across the commonwealth.

In August, the Governor signed an executive order establishing the nation's first LGBTQ Affairs Commission and called on the General Assembly to pass the PA Fairness Act, which would non-discrimination provisions in state law to protect against discrimination based on sexual orientation, and gender expression or identity.

### Conclusion

All Pennsylvanians deserve to live, learn, and work in places that are safe, supportive, and inclusive. Throughout his tenure, the Governor has been a strong advocate for policies and programs that combat sexual harassment, sexual violence, domestic violence, and workplace discrimination, and that improve options and protections for individuals experiencing abuse, and is urging the General Assembly to act on these recommendations. At the cornerstone of these efforts are the voices of individuals who have the courage to come forward and challenge systems and leaders that fail to effectively address these issues.

Thank you for the opportunity to share some of the work that the Administration has undertaken on this important front, and I look forward to continued collaboration moving forward.

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<sup>i</sup> Rhitu Chatterjee, "A New Survey Finds 81 Percent Of Women Have Experienced Sexual Harassment," *NPR*, February 21, 2018, <https://www.npr.org/sections/thetwo-way/2018/02/21/587671849/a-new-survey-finds-eighty-percent-of-women-have-experienced-sexual-harassment>.

<sup>ii</sup> Jocelyn Frye, "Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment Across Industries Affects All Workers," Center for American Progress, November 20, 2017, <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>.

<sup>iii</sup> *Select Task Force on the Study of Harassment in the Workplace*, U.S. Equal Employment Opportunity Commission, June 2016, [https://www.eeoc.gov/eeoc/task\\_force/harassment/upload/report.pdf](https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf).

<sup>iv</sup> Ibid.

<sup>v</sup> Frye, "Not Just the Rich and Famous," Center for American Progress. <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>.

<sup>vi</sup> *Select Task Force on the Study of Harassment in the Workplace*, U.S. Equal Employment Opportunity Commission, June 2016, [https://www.eeoc.gov/eeoc/task\\_force/harassment/upload/report.pdf](https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf).



**Testimony Before the Pennsylvania House Democratic Policy Committee**

**Public Hearing: #MeToo**

**By Terry L. Fromson, Managing Attorney, Women's Law Project**

**August 27, 2018**

Good afternoon. On behalf of the Women's Law Project I wish to thank Representative Tai, House Democratic Policy Committee Chairman Sterla, and policy committee members for convening this hearing on sexual harassment in the workplace. My name is Terry Fromson and I am managing attorney of the Women's Law Project, a Pennsylvania-based legal advocacy organization dedicated to advancing the legal status of women and girls through impact litigation and public policy advocacy.

The past decade has witnessed the unprecedented public exposure of sexual harassment in our society – in schools, on the streets, and, as we will be discussing today, in the workplace. The support provided by the #MeToo movement has enabled those subjected to sexual harassment to speak up and share what happened to them and how it affected them. They are telling us about the crude comments, groping, and sexual penetration they have suffered, their fears of retaliation and disbelief if they report the harassment, the retaliation they experience when they do report, the lack of employer response, and the toll it takes on them emotionally, physically, and professionally. They are talking because they want to prevent others from being similarly harmed. The Women's Law Project supports changes in the law that will move us in that direction.

Sexual harassment encompasses a broad range of verbal and non-verbal conduct that includes unwelcome sexual advances, requests for sexual favors, and other behavior of a sexual nature. It also includes non-sexual harassment that is based on the sex of the victim, similar to harassment based on race, ethnicity, and other protected classes. The harassment may involve felonious sexual assault, but also includes offensive and humiliating words and gestures which have no place in a respectful environment.

Sexual harassment is pervasive. A recent poll reported that 81% of women say they have experienced sexual harassment in their lifetime, with 38 % reporting harassment at work.<sup>1</sup> In Fiscal Year 2017, sexual harassment claims comprised nearly one-quarter of federal harassment complaints.<sup>2</sup> Black women file harassment complaints at a higher rate and harassment complaints often include additional bases of discrimination such as race, national origin and retaliation.<sup>3</sup>

MAIN OFFICE \_\_\_\_\_

Sheridan Building  
125 South 9th Street, Suite 300  
Philadelphia, PA 19107

215.928.5761 t • 215.928.9848 f  
[www.womenslawproject.org](http://www.womenslawproject.org)  
[info@womenslawproject.org](mailto:info@womenslawproject.org)

WESTERN PENNSYLVANIA OFFICE \_\_\_\_\_

The Pittsburgher  
428 Forbes Avenue, Suite 1710  
Pittsburgh, PA 15219

412.281.2892 t • 215.928.9848 f  
[www.womenslawproject.org](http://www.womenslawproject.org)  
[infopitt@womenslawproject.org](mailto:infopitt@womenslawproject.org)

Sexual harassment occurs in all types of workplaces. We have heard about harassment from individuals in the entertainment industry and in the auto factories. Low income workers are particularly vulnerable. Restaurant workers whose livelihood depend on the tipped minimum wage makes them highly vulnerable to sexual harassment on the job.<sup>4</sup> Where men are in charge or predominate, sexual harassment is also more pervasive. Construction workers are an example. A report by the Chicago Women in Trades found that 88 percent of female construction workers experience sexual harassment at work.<sup>5</sup>

The fear of retaliation and disbelief for reporting sexual harassment is real. As many as 75% of those who report workplace mistreatment experience retaliation.<sup>6</sup> And women who report sexual misconduct are regularly disbelieved, even charged with false complaints which turn out to be wrongly charged.<sup>7</sup> The data relating to criminal complaints shows, however, that only 2-10% of reports of rape made to law enforcement are false, a rate no different than rates of false reports for other crimes.<sup>8</sup> Attorneys for both employees and employers who testified before the House Labor and Industry Committee on April 24, 2018, based on their experience, testified that false complaints in the civil system are rare.

Why would women lie about being sexually harassed? While celebrities are now being congratulated for reporting harassment, average women are not famous and face challenges and risks if they report and seek a legal remedy. Not only do they often have to continue to go to work with their harassers and suffer ongoing harassment, once they report, they are treated as outcasts on the job and persecuted. Meanwhile their complaints to management frequently do not stop the harassment. They may be forced to leave their job and suffer economically. And taking further action, like bringing a lawsuit under anti-discrimination laws takes years, costs money, and provokes retaliation and loss of employment. There is no incentive to lie.

Laws exist to address sexual harassment in the workplace. Title VII of the Civil Rights Act of 1964 is the federal anti-discrimination law. The Pennsylvania Human Relations Act (PHRA) outlaws discrimination at the state level, and many local governmental units have their own anti-discrimination ordinances. These laws place the responsibility on the employer to stop the harassment. They prohibit quid pro quo sexual harassment – where sexual activity is explicitly or implicitly made a term or condition of employment or the submission to or rejection of such conduct is used as a basis for employment decisions. They also prohibit conduct that unreasonably alters the terms and conditions of employment so as to create a hostile or abusive work environment. A hostile work environment can be created by one or more acts of harassment, depending on the circumstances. The PA Whistleblower Act prohibits discrimination and retaliation for good faith reports of wrongdoing.

These laws are enforced through administrative bodies that are authorized to investigate complaints of discrimination. If a victim does not get an appropriate response from the

employer, the next step is to file a complaint with one of these agencies. They include the Equal Employment Opportunity Commission (EEOC) at the federal level and the Pennsylvania Human Relations Commission (PHRC) at the state level.

The laws, however, differ in terms of who is eligible to seek their protection and how the law is enforced. This means, there are gaps in protection that need to be filled. The seven bills pending in the House Labor & Industry Committee will go far to fill the gaps in state law and the Women's Law Project wholeheartedly supports them:

Employee Threshold. The federal, state and local anti-discrimination laws have different thresholds for the size of employers to which they apply. Title VII applies to employers with 15 or more employees. The PHRA applies only to employers with four or more employees. Local agency thresholds vary from 1 to 5. As a consequence, there are people who have no statutory remedy for harassment because of geography and/or size of their employer. Why should an employee who works for someone who employs only 3 individuals be excluded from protection against discrimination and harassment? Why should the over 150,000 employers of 3 or less employees be exempted from the obligation to prevent and address harassment? There can be no justification. Common decency requires employers to protect those who provide services to them from discrimination. The PHRA applies to Pennsylvania workers and its employee threshold should be reduced to one. House Bills 2280 and 2282 will accomplish this objective.

Exclusions. Some workers are excluded from protection from discrimination altogether. Title VII only applies to employees. It does not cover independent contractors, interns, or volunteers. The PHRA covers some independent contractors but does not protect interns or volunteers and specifically excludes domestic and agricultural workers.

Generally, employees and independent contractors are distinguished based on who directs and controls the performance of duties for which compensation is provided. Employees are under the control of the employer. Independent contractors are running their own business and retain direction and control over the means and manner of job performance — the how, when, and where they perform their duties.<sup>9</sup> However, employers sometimes misclassify employees as independent contractors to evade coverage by labor and employment laws, including anti-discrimination laws.<sup>10</sup>

The PHRA only covers independent contractors who are licensed by the Pennsylvania Department of State.<sup>11</sup> The PHRA thus protects independent contractors such as architects, crane operators, or other occupations licensed by the Pennsylvania Department of State<sup>12</sup> but leaves out others who are equally vulnerable to sexual harassment as they interact with managers, other employees, and third parties like customers.<sup>13</sup> It is estimated that 10-20% of the U.S. labor force work as independent contractors.<sup>14</sup> Whether groped by a manager while

working as a contract singer and dancer for a band<sup>15</sup> or by an attendee at a work-related event while working as a photographer, independent contractors deserve protection from sexual harassment.<sup>16</sup> House Bill 2280 will expand PHRA coverage to all independent contractors and provide necessary protection to the growing number of workers who are classified — correctly and incorrectly — as independent contractors and lack protection from workplace harassment. These include freelancers and individuals in the gig economy.

Exclusions long written into the law for agricultural and domestic workers that leave these employees unprotected<sup>17 18</sup> should be removed. These exclusions are rooted in explicit racial discrimination. There is no justification for denying protection from harassment to individuals who work on farms or in their employer's home. They are equally if not more vulnerable to harassment. House Bills 2280, 2282, and 2475 will eliminate the PHRA exemption of both domestic and agricultural workers.

These bills could be strengthened, however, by removing limits to the elimination of the exclusion. The bills retain the exemption for workers who reside in the personal residence of the employer.<sup>19</sup> House Bills 2282 and 2475 retain the entire “reside at home” exclusion, while House Bill 2280, removes domestic workers from the exclusion but defines domestic workers to exclude “casual” employees such as babysitters and employees who provide companionship services to individuals who are unable to care for themselves.” This exclusion appears to be drawn from the minimum wage and maximum hour requirements of the Fair Labor Standards Act, 19 U.S.C. § 13 (a)(15) which should have no bearing on whether a babysitter or paid companion should be protected from harassment. Working and living in the household of one's employer makes someone more vulnerable to harassment, not less, and should favor protection.

Protection for unpaid interns and volunteers under the PHRA is extended by House Bills 2282 and 2475. These individuals work alongside employees, but have looser ties to the workplace and may not know how to register a complaint or may feel uncomfortable doing so. They are no less vulnerable than any other person who provides services to an employer and may be even more vulnerable.

Filing deadlines. The PHRA's short 180 day filing deadline is a barrier to protection for some people. Sometimes, a victim wants to try to work the problem out without making trouble for herself before resorting to an external, adversarial system for a solution. Deciding to complain about harassment is a complicated one in which an employee must weigh the risk of retaliation, loss of employment, and the means of supporting a family against the ongoing trauma of harassment. A longer time period to file a complaint under both the PHRA and the Whistleblower Act will provide the needed time to make this difficult decision. House Bill 2286 will expand the time for filing with the PHRA to 2 years and House Bill 2284 will similarly extend it under the Whistleblower Act.

Jury Trials. The choice to take your case to a jury of your peers is an essential part of the legal system. Jury trials have been available in discrimination cases brought under Title VII since 1991. The PHRA allows them for housing discrimination but not for employment discrimination. Because of Title VII's higher employee threshold, many people do not have the option of filing under Title VII. Amending the PHRA to provide for jury trials for employment discrimination will provide equal access to jury trials. While people may disagree about the pros and cons of a jury trial, many believe that a jury will better relate to the circumstances of a fellow citizen and better appreciate the harm a victim of discrimination experiences in the workplace. The choice should be available to the prospective plaintiff in an employment discrimination claim under the PHRA as it is under federal law and for housing discrimination cases under the PHRA. House Bills 2286 and 2284 will allow for jury trials under the PHRA and Whistleblower Law.

Remedies: Although available under federal law, the PHRA does not authorize the award of punitive damages to victims of discrimination in employment. Punitive damages are intended to punish malicious and reckless conduct and deter discrimination. House Bill 2286 and House Bill 2284 will also allow punitive damages under the PHRA and Whistleblower Law. Such remedies will incentivize employers to prevent sexually harassment and provide greater relief to a complainant.

Attorney Fees and costs: Harassment and discrimination are civil rights issues for which, under federal law, attorneys' fees and costs are awarded to prevailing parties. The statutory right to attorneys' fees and costs from the defendant in a successful sex discrimination case makes it possible for those with few resources to be able to pursue litigation against their employer. The PHRA, however, only permits courts to award fees and costs; it does not mandate it.<sup>20</sup> By replacing the "may" in the law by "shall," House Bill 2286 will make fees and costs mandatory. However, the bill muddies the concept a bit by adding the clause: "unless the court determines that special circumstances exist to justify denial of such fees." The removal of this provision will eliminate any doubt about the mandatory nature of attorney fees and costs based on a judicial assessment of whether the plaintiff was successful without perpetuating the prevailing unlimited discretion which will make lawyers less likely to provide representation.

Policies and procedures and training. Employers are the first person to whom a person who was subjected to sexual harassment may report. They need to understand their obligations to their employees and they must make sure their employees are aware of procedures they can pursue and remedies available to them. Too often employers do not have policies or procedures to address sexual harassment, and provide no education or training. Too often managers lack knowledge of their obligations and the procedures for addressing sexual harassment. When a complaint is made, they may not respond at all, in a timely fashion, or in a satisfactory manner. House Bills 2282, 2283 and 2475 will require public and private employers to have fair and

transparent procedures and to provide appropriate, interactive, and repeated training for supervisory and non-supervisory employees.

Pennsylvania General Assembly. The General Assembly's overwhelmingly male environment has been described as toxic. One of dirty jokes, sexual comments, pornographic emails, and inappropriate touching. Staffers and volunteers and lobbyists are affected. Apparently four sets of rules and procedures exist – one for each house, each party. They are not publicly available. Transparency to the constituencies our legislators represent and the employees, interns, volunteers and others they interact with is altogether missing. Are the procedures adequate, publicized to all who might need to use them, provide appropriate process and safety measures for both complainants and accused? Do they provide for publication of information of complaints and their resolutions to the public? Are they independent? I can only assume not as the procedures remain secret and we have only now begun to learn about complaints. House Bill 1965 provides for an independent entity to oversee a reporting and resolution process that is independent, fair, efficient, and transparent. It also provides workplace accommodations for affected employees, regular training, and transparency of complaints filed and their resolution. This bill must be adopted to ensure our elected officials meet the high standards of conduct expected of them.

The seven bills I have discussed are in House Labor and Industry Committee. Chairman Kauffman has said the legislature takes sexual harassment in the workplace very seriously and that the committee will move deliberately. The only two bills that have moved out of committee are bills to study the issue. While more information is always helpful to obtain, we don't need more information to know that the General Assembly must move expeditiously to enact these bills. They contain ready to enact concrete fixes that will expand and improve Pennsylvania's sexual harassment protection. They should be adopted without haste. Sexual harassment is a systemic problem. We need to fix our systems to prevent and redress further harm.

Thank you for inviting me to testify today and for your efforts on behalf of sexual harassment victims.

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<sup>1</sup> Rhitu Chatterjee, *A New Survey Finds 81 Percent of Women Have Experienced Sexual Harassment*, NPR (Feb. 21, 2018), <https://www.npr.org/sections/thetwo-way/2018/02/21/587671849/a-new-survey-finds-eighty-percent-of-women-have-experienced-sexual-harassment>

<sup>2</sup> EEOC, Enforcement and Litigation Statistics, All Charges Alleging Harassment (Charges filed with EEOC), FY2010-2017, [https://www.eeoc.gov/eeoc/statistics/enforcement/all\\_harassment.cfm](https://www.eeoc.gov/eeoc/statistics/enforcement/all_harassment.cfm);  
EEOC, Enforcement and Litigation Statistics, All Charges Alleging Sexual Harassment (Charges filed with EEOC) FY2010-2017, [https://www.eeoc.gov/eeoc/statistics/enforcement/sexual\\_harassment\\_new.cfm](https://www.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment_new.cfm)

<sup>3</sup> Nat'l Women's Law Center, *Out of the Shadows: An Analysis of Sexual Harassment Charges Filed By Working Women* (2018), <https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2018/08/SexualHarassmentReport.pdf>

<sup>4</sup> Women in Pennsylvania Need One Fair Minimum Wage, <http://www.womenslawproject.org/wp-content/uploads/2018/04/Women-in-PA-Need-One-Fair-Minimum-Wage-February-2018-v.2.pdf>

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<sup>5</sup> Chicago Women in Trades, *Breaking New Ground: Worksite 2000* (1992), <http://chicagowomenintrades2.org/wp-content/uploads/2015/02/Breaking-New-Ground2.pdf>

<sup>6</sup> EEOC, Select Task Force on the Study of Harassment in the Workplace, Report of Co-Chairs Chai R. Feldblum & Victoria Lipnic, (June 2016), [https://www.eeoc.gov/eeoc/task\\_force/harassment/report.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm)

<sup>7</sup> See Jan Jordan, *The Word of a Woman? Police, Rape, and Belief*, (2004); Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases: Hearing Before the Subcomm. on Crime and Drugs of the Senate Comm. on the Judiciary 111th Cong. 6-7 (Sept. 14, 2010) (statement of Carol E. Tracy, Executive Director, Women's Law Project) <http://www.judiciary.senate.gov/imo/media/doc/09-14-10%20Tracy%20Testimony.pdf>

<sup>8</sup> Kimberly Lonsway & Joanne Archambault, *The "Justice Gap" for Sexual Assault Cases: Future Directions for Research and Reform* 18 *Violence Against Women* 145-168 (2012); David Lisak et al., *False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases*, 16 *Violence Against Women* 1318-1334 (2010).

<sup>9</sup> See Nat'l Employment Law Project, Policy brief: Independent Contractor vs. Employee (May 201) <https://www.nelp.org/wp-content/uploads/Policy-Brief-Independent-Contractor-vs-Employee.pdf>

<sup>10</sup> *Id.*

<sup>11</sup> 34 P.S. §954(x).

<sup>12</sup> Pa. Dept. of State, Bureau of Prof'l and Occup'l Affairs, Review of State Professional and Occupational Licensure Board Requirements and Processes (June 11, 2018).

<sup>13</sup> Yuki Noguchi, NPR, *Unequal Rights: Contract Workers Have Few Workplace Protections* (Mar. 26, 2018), <https://www.npr.org/2018/03/26/593102978/unequal-rights-contract-workers-have-few-workplace-protections>

<sup>14</sup> Yuki Noguchi, NPR, *1 in 10 Workers Is an Independent Contractor, Labor Department Says*. (June 7, 2018). <https://www.npr.org/2018/06/07/617863204/one-in-10-workers-are-independent-contractors-labor-department-says>

<sup>15</sup> See *supra* note 2.

<sup>16</sup> Honeybook, *Sexual Harassment is Pervasive Among Self-Employed Creatives* (Jan. 25, 2018) <https://www.honeybook.com/risingtide/sexual-harassment-report/>

<sup>17</sup> Ai-Jen Poo & Monica Ramirez, *Female Domestic and Agricultural Workers Confront an Epidemic of Sexual Harassment*, (May 4, 2018), <https://www.aclu.org/blog/womens-rights/womens-rights-workplace/female-domestic-and-agricultural-workers-confront>; Ariel Ramchandani, *The Atlantic*, *There's a Sexual-Harassment Epidemic on America's Farms* (Jan. 29, 2018), <https://www.theatlantic.com/business/archive/2018/01/agriculture-sexual-harassment/550109/>.

<sup>18</sup> Alexia Fernandez Campbell, *Vox.com*, *Housekeepers and nannies have no protection from sexual harassment under federal law*, (Apr. 25, 2018), <https://www.vox.com/2018/4/26/17275708/housekeepers-nannies-sexual-harassment-laws>.

<sup>19</sup> PHRA 43 P.S. §4(c)(2).

<sup>20</sup> 43 P.S. §962(c.2).



**Testimony of Nadia Hewka**  
**Attorney, Community Legal Services of Philadelphia**  
**August 27, 2018**

I'm here as an attorney who represents low income Pennsylvania workers at Community Legal Services, in support of the package of seven bills that have been introduced with the support of House Democratic Leadership. My testimony will provide insight on how sexual harassment manifests itself in low wage workplaces, as well as prevention and how to do it right.

I want to start by digging a little deeper into the workplace power dynamics that lead to sexual harassment and other forms of discrimination. We need to understand these dynamics and view all of the systems through the lens of the most disempowered to make sure the systems will work for all workers and thereby have any chance of success in eradicating sexual harassment and other types of discrimination.

In the workplace, and in society generally, people lack power for a variety of different, layered reasons. This is especially true for a worker who is a woman, racial minority, immigrant, person with a disability, LGBTQ+ individual, person living in poverty, or person on bottom of "totem pole" at the job. Not all of these categories are "protected classes" under discrimination law but they all interact with and amplify each other. Aggressors select relatively powerless targets and targets often do not fight back because of their powerlessness. And that is why sexual harassment happens more often and more severely to immigrant farmworker women, or immigrant janitor women, because they are perceived as having less power and thus less likely to speak up. The most severe cases we have seen, where harassment leads to sexual assault, have happened to our immigrant clients who work in restaurants or in cleaning. Predators know who to target with a quick calculus of who is less likely to speak up, and less likely to be believed if they do speak up, and less likely to take legal action out of fear. Sexual harassment also happens more in workplaces that have a strong male dominated culture, as seen in the NY Times articles about the problems at the Ford plants in Detroit, where men team up to exclude women and black and brown people from threatening their status and power. In addition to the impacts on the individual, the economic impacts are wide ranging, as these are better paying jobs and whole classes of workers are excluded. We have decided as a society to do something about this problem and have put laws and enforcement agencies in place to try to fix that.

On the flip side, think about the ways that a disempowered person, now traumatized from the sexual harassment, can possibly navigate the systems we have set up to get legal redress. Power dynamics continue to work against her at that point, complicated by other factors, like trauma. You need to report hostile work environment before you have a legal claim, going up against those in charge on the job whose instinct may be to protect their friends and existing power structures. Fear



of losing the job, exacerbated by lack of savings for low income people working paycheck to paycheck, and lack of safety net whatsoever for immigrant workers, can present an incredible barrier to reporting harassment. The other factors that people are up against when reporting something at the workplace include normalization of harassing behaviors that cause already traumatized people to further blame and shame themselves, fear of ostracism by coworkers for complaining, hostile human resources departments that are there to serve the interest of the company and not the workers, lack of any HR department at a small workplace, no workplace policies to know to whom to report, etc. It takes a highly motivated person to move forward facing all this, and in my experience they are often motivated by an internal strong sense of justice, or wanting to make sure this doesn't happen to others, or when the behavior gets completely intolerable and rises to the level of sexual assault.

Once the person figures out how to go further, their legal recourse is hampered by lack of resources for a lawyer, lack of resources at the Pennsylvania Human Relations Commission and other anti-discrimination agencies that cause long delays and particularly impact the outcomes for unrepresented complainants; also such things as statutes of limitation, lack of coverage if harassment happened in a small workplace, or if it happened to an independent contractor, lack of information regarding past history of harasser or the company, and sometimes by arbitration agreements. If and when a survivor makes it to the agency they then have to go up against vastly greater resourced company that cause further delays to extract a low settlement, taking advantage of the power imbalance to demand confidentiality clauses, and other outcomes that favor the company rather than the public good of ending harassment.

We support the proposed reforms because the traumatized poor woman of color might need more time to process the trauma before ready to get new job and then fight what happened at old job, so short statutes of limitations work against her. We need more workplaces covered so the immigrant woman at pizza place or the domestic worker, or the gig worker has somewhere to turn once she has figured out how to extract herself from the dangerous situation. We need the possibility of a jury trial to even the power balance between the worker and the company in the legal process. And so it goes for all of these reforms that we are discussing, as they are not merely abstract policies but have real impacts on real people. The facts are that the systems in place haven't served all equally well and we must do better lest we replicate the power dynamics already in force.

While I'm here I'd also like to urge all who care about this issue to think about what we can do to prevent sexual harassment from happening in the first place. This is a big task but there are things we can do and are trying to do before the harm occurs, leaving someone traumatized for life, or excluded from a career. Some of these things the law cannot fix as backpay and damages do not fix trauma.

A couple of years ago a number of Philadelphia organizations came together to see whether we can do our work differently. We took note of a study that the Restaurant Opportunities Center did of Philadelphia restaurant workers, showing high levels of sexual harassment, among other problems



in these unregulated, nonunion workplaces. National statistics show that despite the recognition that sexual harassment is underreported, of EEOC complaints, restaurants are the biggest source of complaints, way out of proportion to size of industry.

Because it is an industry that is public facing, workers face harassment by customers in addition to the coworker and supervisor sexual harassment in other workplaces. This is combined with the many other factors including the presence of alcohol to fuel poor choices, the tipped minimum wage which makes servers and others tolerate unacceptable behaviors, huge power imbalances in hierarchical structures in kitchens and because of large immigrant workforce, macho workplace cultures in kitchens. Add to this the fact that these workplaces are unregulated, meaning nonunion, and usually small businesses that often don't have any workplace policies in place let alone strong sexual harassment policies.

It's somewhat ironic that employers actually need to put policies in place to encourage reporting, so that they can put an end to discriminatory, harassing behavior that is damaging to the individuals and to workplace morale. If they don't know about it, they can't stop it; if the problem is allowed to continue and grow until it gets more severe, it will be more likely to lead to a legal claim. So this means an employer must also put itself into the shoes of the least empowered person at workplace and think through how to encourage that person to report when implementing policies and procedures and evaluating its workplace culture. Workers are not likely to come forward if past experience shows that supervisors don't take their complaints seriously; what would be the point of putting your job at risk and face ostracism from coworkers if the end result will lead to no change at all?

Most workplace sexual harassment trainings are done with an eye to avoid liability, not true prevention. We came up with a different kind of model for our free training project: we talk about trauma, workplace dynamics, coworker intervention, to encourage reporting by the harassed worker and by coworkers who witness harassing behavior. We also came up with sample policies and procedures for employers to implement that are tailored to the restaurant industry. We are working to raise funds to get organizers on board who are connected with the restaurant industry to do peer-to-peer training and outreach. Our goal is to make workplaces safer for all and we believe it is in the business interest of employers to do so. Our project is called the Coalition for Restaurant Safety and Health, or CRSH, and we welcome you to learn more about us at our website, [www.saferestaurantsphilly.org](http://www.saferestaurantsphilly.org)

As we do this work we would welcome the opportunity to discuss what we are seeing, what is working and what isn't, and whether there are policy steps that can be taken to encourage a prevention-based approach that is actually effective, such as insurance discounts or other incentives.



Help • Hope • Healing

**Testimony to the Pennsylvania House Democratic Committee: Public Hearing on *Me Too*  
By Donna Greco, Policy Director, Pennsylvania Coalition Against Rape  
Monday, August 27, 2018**

Thank you, Representative Tai and Chairman Sturla, and members of the House Democratic Policy Committee for your leadership in convening this hearing on the *Me Too* movement. My name is Donna Greco. I am the policy director at the Pennsylvania Coalition Against Rape (PCAR). PCAR represents a network of rape crisis centers that provide sexual harassment, abuse, and assault prevention programs and victim services in all 67 counties throughout Pennsylvania. Together, our mission is to eliminate all forms of sexual violence and advocate for the rights and needs of victims.

Tarana Burke founded the *Me Too* movement in 2006 to support sexual violence survivors—particularly young women of color—in their healing. A survivor herself, Burke established this campaign to empower other survivors through a community of empathy and activism.

In October 2017, following public reports of sexual harassment involving entertainment industry mogul, Harvey Weinstein; Roy Price of Amazon Studios; Dr. Lawrence Nassar, team doctor for the U.S. Olympic Gymnastics team; and actor Kevin Spacey, the #MeToo hashtag emerged on social media platforms around the world.

This hashtag created a space for people to share their experiences with sexual harassment. In fact, in just 24 hours, more than 12 million people posted on Facebook alone that they had been sexually harassed or assaulted. The original *Me Too* campaign and its most recent iteration as a hashtag should be commended as mechanisms to break the isolation and silence that have surrounded sexual harassment, abuse, and assault for too long. Yet, we know this is just the tip of the iceberg. There are 12 million+ people who continue to suffer in silence. Because too often, when victims tell us what happened to them, our systems and laws let them down. We can and must do better.

**To affect real change, our laws and practices must be responsive to this core question:**

***Why don't victims come forward?***

Sexual harassment is widespread, unlawful, and has long-existed. The continuum of sexual harassment includes offensive verbal remarks and gestures, repeated sexual advances, sexually explicit emails and images, and unwanted sexual contact including rape.

Pennsylvania Coalition Against Rape

2101 N Front Street, Governor's Plaza North, Building #2, Harrisburg, PA 17110

TOLL FREE 800-692-7445 • PHONE 717-728-9740 • FAX 717-728-9781 • TTY 877-585-1091

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**NO MORE**

According to the Equal Employment Opportunity Commission<sup>1</sup>, 81% of women and 42% of men have experienced sexual harassment at some point in their lives. Yet most never report it to law enforcement or to their employer. Instead, they suffer in silence.

**Common barriers to reporting sexual harassment are rooted in fear and shame and often reinforced by our laws, policies, and practices:**

- no one will believe them,
- there won't be any action,
- they will be blamed for causing the harassment,
- they will face humiliation or retaliation from their peers,
- they will face professional retaliation or damage to their careers or professional standing.

**Using the voices of victims as our guide, together, we can ensure our laws, policies, and practices uproot these barriers.**

**We must believe victims.** The rate of false reporting<sup>2</sup> is low for sexual assault (as low as 2%), given the re-victimization and difficulties people face when they do choose to come forward. Decades of studies show us that sexual harassment affects every workplace and social setting, negatively impacting children, women, and men. Interrupted education, sleep, and diet are common consequences as well as undermined earning potential and physical health struggles rooted in stress and trauma.

**We must take action when a report of harassment is made.** Streamlined and transparent systems must be in place to adequately respond to, investigate, and resolve reports of sexual harassment in a timely manner. Safeguards and services must be in place to protect individuals and larger workplaces following a report. Offenders must be held accountable for their actions in ways that are proportionate to the harm they have caused and in ways that prevent ongoing harm to occur. Victims' rights must be upheld and their needs must be met. Personnel responsible for receiving, investigating, and resolving sexual harassment reports must have adequate training and work in partnership with subject matter experts in the community, such as rape crisis centers.

**We must ensure our policies and practices prohibit victim-blaming.** Our practices must seek to understand and scrutinize the harmful behaviors of offenders and what in our workplaces allow such behaviors to occur. Too often, our focus is wrongly placed on the behaviors of victims—what were they wearing, drinking, doing, or saying at the time of the abuse. Victim-blaming is harmful and prevents us from affecting real change in our workplaces and communities.

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<sup>1</sup> [https://www.eeoc.gov/eeoc/task\\_force/harassment/report.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm)

<sup>2</sup> [https://www.nsvrc.org/sites/default/files/2012-03/Publications\\_NSVRC\\_Overview\\_False-Reporting.pdf](https://www.nsvrc.org/sites/default/files/2012-03/Publications_NSVRC_Overview_False-Reporting.pdf)

**Bystander intervention and gender equity must replace humiliation and retaliation among peer groups.**

**Offensive behaviors should be stigmatized, not the reports of victims.** Bystander intervention and gender equity must be expected among peers, not humiliation and retaliation. We need to examine the attitudes, beliefs, knowledge, and skills that adults bring into their workplaces and communities—attitudes that can lead to condoning, ignoring, or staying silent about harassing behaviors. Those attitudes and skills are shaped early in our lives—by our schools, families, neighborhoods, and peer groups. We need early prevention programming that prepares children to demonstrate ethics of respect, safety, and equity throughout their lives and eventually in their workplaces and communities as adults. Interrupting harmful behaviors should be the norm, not retaliating against people who have the courage to speak out. Our workplaces must provide ongoing supervision and training on bystander intervention and civility to reinforce these values and help every individual create the kind of workplace we all deserve.

**Retaliation or harm to one's career should never follow a good-faith report of sexual harassment. However, causing harm to someone by sexually harassing them should carry professional consequences.** Professional retaliation is unlawful and should never follow a good faith report of sexual harassment, abuse, or assault. Victims should not have to choose between their livelihood or professional advancement and their safety. They should not have to weigh coming forward and speaking out against a demotion, lost work opportunity, or getting fired. Workplace leadership must model the values of the workplace and formalize individuals' responsibilities for addressing sexual harassment through training, job descriptions, supervision, and employee work plans. A culture of reporting should be encouraged, not punished. If leadership pays attention to the workplace climate surrounding sexual harassment and its prevention, their employees will follow suit.

Since the emergence of the #MeToo hashtag in October 2017, public reports of sexual harassment, abuse, and assault have been made involving legislators in Pennsylvania's General Assembly and the U.S. Congress; comedians; actors; musicians; TV, newspaper, and radio personnel; celebrity chefs and restaurant owners; theatre and opera prodigies, and most recently, priests and leaders in the Pennsylvania Catholic church.

**These courageous victims and survivors have entrusted the world with their stories. They have shouldered the burden of sexual harassment, abuse, and assault and have brought it to light. We must match their courage.**

We must match their courage and each do something proactive in our communities to help a survivor and to speak up about sexual violence. We must match their courage and reach out to our local rape crisis centers for training and support in making our communities safer.

We must match their courage and pass legislation that creates substantial change in our workplaces and communities—legislation that is responsive to the #MeToo voices and the many victims still struggling to come forward.

Thank you for inviting PCAR to submit testimony on this important issue and for your leadership in convening this hearing. Please contact me if I can be of assistance to this Committee: [dgreco@pcar.org](mailto:dgreco@pcar.org) or 717-728-9740, x114.



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