



## Courts in the Era of #WeToo

### **MODULE 2: Preventing & Responding to Sexual and Gender-Based Harassment in Judicial Environments [3 hrs.]**

#### **Segment A: Eliminating the Drivers of Sexual and Gender-Based Harassment in Judicial Environments [75 mins.]**

- **Individual Exercise [3 mins]**

Trainers will ask participants to individually reflect on the following prompt and use a piece of paper to record their reflections. Take care to inform participants that – although they will be asked to report back their thoughts if they feel comfortable – the paper will not be collected in order to preserve their privacy.

- Are incidents of sexual and gender-based harassment inevitable?
  - If not, are they preventable? If so, how?

Trainers will then ask a few participants to voluntarily share their reflections.

- **Small Group Discussion: Preventable Scenarios & Report Back [25 mins]**

Trainers will mention that workplace confidence in prevention and response approaches is important because everyone is watching:

- May impact whether victims - and people who are concerned about becoming victims - report their experiences;
- May deter potential perpetrators; and
- May impact coworker morale and faith in the institution as something impacted by prevention and response approaches.

Trainers will ask participants to convene into small groups and discuss the following scenarios. Depending on the number of groups, trainers may opt to ask certain groups to focus on one particular scenario.

For the scenario assigned, ask participants to consider:

- What power dynamics drove the harassment described in the scenario?
- Was this incident preventable?
  - If so, how? If not, why?
- If no one was able to prevent this incident, could another person have intervened?
  - If so, how? If not, why?

**Note:** At least 10 minutes should be reserved for several groups to report back on their discussions.

### **Scenario One**

- Victim: Law Clerk
- Alleged Harasser: Chief Judge
- Location of incident(s): Chambers and restaurants
- Nature of incident(s):
  - Ongoing and escalating pattern of pretextual requests for the clerk to work late for the apparent purpose of pressuring the clerk to accept dinner with the judge.
  - Dinners began with a tone of professional development and are becoming increasingly flirty.
- Reporting status: Clerk told a clerk in another chambers, who has - unauthorized - asked an administrator how to support but is unwilling to identify the victim.

### **Scenario Two**

- Victim: Clerk's Office employee
- Alleged Harasser: Another Clerk's Office employee (peer - same level)
- Location of incident(s): Clerk's Office

- Nature of incident(s): Their supervisor has personally witnessed two problematic engagements:
  - (1) Overheard the alleged harasser making a comment about the victim's clothing; and
  - (2) Witnessed the alleged harasser apparently graze their hand across a private area of the victim.
- Reporting status: None. Rumors are the two may be dating.

### **Scenario Three**

- Victim: Public Visitor
- Alleged Harasser: Court Security Officer
- Location of incident(s): Entrance
- Nature of incident(s):
  - Upon checking the visitor's ID, the Court Security Officer made it a point to loudly refer to the visitor by the name indicated on the ID (which is traditionally given to persons who identify as a gender different from how the visitor presents).
  - When the visitor affirmed their name, the security officer said, "move along, tranny."
- Reporting status: The visitor emailed a general courthouse account.

### **Scenario Four**

- Victim: Janitorial staff
- Alleged Harasser: Attorney
- Location of incident(s): Restroom
- Nature of incident(s):
  - The attorney groped the janitorial staffer.
  - They have conversed in passing over the years; otherwise, the incident seemed out of the blue.
- Reporting status: Janitorial staff dialed 911 immediately after the incident; police just arrived at the scene.

**Note:** Gender is purposefully left ambiguous in each fact pattern to allow for discussion points on gender-related assumptions.

### **● Learning Points: Prevention [15 mins.]**

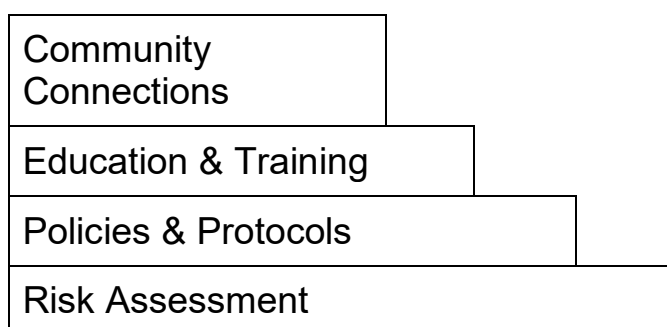
Trainers will stress that prevention may take various forms, from awareness campaigns and town hall discussions to bystanders intervening upon witnessing a potential incident.

Trainers will review the following learning points:

- In some circumstances, bystander intervention is an immediate way to prevent sexual and gender-based harassment.
- Bystander intervention may not be appropriate if a direct confrontation would be unsafe for the victim and bystander.
- Bystander intervention tips and strategies:
  - **Disrupt the situation:** Distract the harasser or insert yourself into the interaction.
  - **Don't act alone:** If possible, recruit others to help you disrupt the situation.
  - **Confront the harasser:** If safe and within your comfort zone, consider telling the harasser that what they are doing is not ok.
    - Understand how power dynamics make it safer for some bystanders to confront harassers.
  - **Assess the target's needs** and help them receive support.
    - Respect a target's request to cease or adjust your intervention.

Source: [Bystander Intervention Tips and Strategies](#), National Sexual Violence Resource Center

## Prevention Framework Pyramid



Awareness Raising Activities
Coordinated Responses
Leadership Buy-In
Needs Assessment

Adapted from Elizabeth Bille, EVERFI. Four Pillars of a Comprehensive Harassment Prevention and Compliance Strategy: [https://info.everfi.com/rs/410-YCZ-984/images/CC\\_Best\\_Practices\\_to\\_Address\\_Workplace\\_Harassment.pdf](https://info.everfi.com/rs/410-YCZ-984/images/CC_Best_Practices_to_Address_Workplace_Harassment.pdf)

- **Integrating Prevention into Systems: Small Group Activity: & Report Back [30 mins.]**

Trainers will ask participants to convene into small groups and list activities that engage system players, such as court administrators.

Participants will consider each system player and list activities in which they can engage with the system player for that circle.

**Example:** For Judicial Officers (as part of the Court/Courthouse circle), a potential activity may be a brown bag lunch discussion on power and control dynamics in judicial workplaces.

- **System Players** - What activities could engage (each group should consider at least one activity within every rung of the **Prevention Framework Pyramid**).
  - **Court/Courthouse**
    - Judicial Officers
    - Court administrators/clerks
    - Courthouse management
    - Security
    - County/State government
  - **Court-Related Services**
    - Court services
    - Probation
    - Custody evaluators

- Pretrial services
- Prosecutors
- Public defenders
- Legal Aid or similar
- Civil attorneys
- Corrections department
- Restitution/Collections
- **Community Systems**
  - DV advocates/shelters
  - Police
  - Prosecutors
  - Public defenders
  - Batterer intervention services
  - Child protective services
  - Health care providers
- **Community-at-Large**
  - Voters
  - Service clubs
  - Churches
  - Schools/educators
  - Media
  - Special interest groups

**Note:** Approximately 10 to 15 minutes should be reserved for groups to report back on their discussions.

- **Learning Points: Benefits of a Comprehensive Program [2 mins]**
  - Sexual and gender-based harassment can be prevented.
  - It all begins with a comprehensive program that gets all system players involved.
  - Victims, people who are concerned about becoming victims, and potential perpetrators are watching. Getting it right has a preventative effect.

- Bystander intervention is another line of defense, but only if safe for all involved.
- Incidents may still happen. Thoughtful responses can be preventative as well:
  - For victims, consider:
    - What are their immediate needs after their experience with harassment?
    - Who should be involved in responding to their needs?
  - For alleged harassers, consider:
    - What are the best ways to hold them accountable?
    - Are there any ways to hold them accountable short of termination or involving law enforcement that may be acceptable to the victim and other workplace stakeholders?

## **MODULE 2: Preventing & Responding to Sexual and Gender-Based Harassment in Judicial Environments [3 hrs.]**

### **Segment B: Centering Needs & Promoting Accountability [75 mins.]**

- **Individual Exercise [10 mins]**

Trainers will present the following definition of trauma:

- An event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being. - [Substance Abuse and Mental Health Services Administration \(SAMHSA\), U.S. Department of Health and Human Services](#)

Trainers will ask participants to individually reflect on the following prompt and use a piece of paper to record their reflections. Take care to inform participants that – although they will be asked to report back their thoughts if they feel comfortable – the paper will not be collected in order to preserve their privacy.

- Would sexual and gender-based harassment be considered a traumatic experience under SAMHSA's definition?

Trainers will then ask a few participants to voluntarily share their reflections.

- **Learning Points on Sexual and Gender-Based Harassment as Trauma [8 mins]**

Trainers will review the following learning points:

- People who have experienced sexual harassment are most commonly diagnosed with depression, anxiety, and post-traumatic stress disorder (PTSD).
  - Sexual harassment can trigger new symptoms of depression and anxiety, or it can exacerbate a previous condition.



- Sexual harassment early in one's career can have long-term depressive symptoms and, therefore, long-term impacts on career prospects and earning potential.
- An incident doesn't have to rise to the level of trauma to be taken seriously.

Source: [The Hidden Health Effects of Sexual Harassment](#), NBC News.

- There are three ways in which sexual harassment poses a threat to physical integrity:
  - (1) by threatening the victim's financial well-being (such as diminishing the victim's ability to perform their job, threatening to transfer or fire the victim from their job, denying earned raises or promotions, or otherwise hindering their career mobility);
  - (2) by threatening the victim's physical boundaries (such as punishing or threatening to punish a victim for not permitting their body to be treated in a particular manner whether that be verbal comments about their appearance or sexuality, unwanted touching, or unreasonable invasion of the victim's personal space);
  - (3) by threatening the victim's control over situations that they should legitimately be able to control (such as the failure of attempts by the victim to end the harassment, the escalation of harassment to actual touching, or retaliation for their actions/attempts to control or alleviate the situation).
  - This approach relies on the inclusion of "threats to physical integrity" as trauma-inducing in the DSM-5.
- Victims' experiences are unwanted, wrong, harmful, and to be avoided, which contributes to the trauma.
- Fears of imminent, continuing, or escalating harassment also contribute to the trauma.
- Problematic investigations, stress related to gossip, retaliation, and financial loss can multiply the impact.

Source: Avina, C. and O'Donohue, W. (2002), [Sexual harassment and PTSD: Is sexual harassment diagnosable trauma?](#) J. Traum. Stress, 15: 69-75.

- Physical symptoms arising from depression, anxiety, and trauma can include muscle aches, headaches, sleep problems, gastric problems, high blood pressure, problems with blood sugar, and weight loss/gain.

Sources: [The Hidden Health Effects of Sexual Harassment](#), NBC News; [Ending Sexual Assault and Harassment in the Workplace](#), National Sexual Violence Resource Center.

- Nannina Angioni, a labor and law employment attorney, describes sexual harassment as a “slithering snake that ripples its way through a work environment causing disastrous results.”
  - “Fearful employees with a pit in their stomach commuting to work, having anxiety, panic attacks, inexplicable fits of crying and physical manifestations of stress: hair falling out, hives, weight gain or loss, sleeplessness and lethargy.”
  - Feelings of shame or guilt.
  - Doubts of one’s own ability, wondering if they were only hired because of their sexual value.
  - Alienation from entire sectors of work.

Source: [The Hidden Health Effects of Sexual Harassment](#), NBC News.

- **Video and Large Group Discussion [10 mins]**

Trainers will play the **first minute** of [The Freeze Response and Sexual Assault: PTSD and Trauma Recovery #2](#).

After the video, Trainers will ask participants the following question:

- What are some reasons a person might freeze as a response to sexual assault or gender-based harassment?

After collecting a few responses from participants, trainers will review the following learning points:

- In the video, it was a groping incident that produced a freeze response.
- Some victims of trauma [“fawn,” or accommodate the trauma:](#)
  - Fawning/accommodating responses include befriending or working to become closer to workers or managers who have caused harm; appearing to “go along” with harassment or violence to avoid further violence or targeting; volunteering for extra projects or committees without regard for one’s health or work capacity; ignoring one’s own needs, thoughts, and beliefs for the benefit of others or the organization; and feeling uncomfortable or threatened when asked to give an opinion or advocate for themselves.
- Consider the statistic referenced in the video: 1 in 3 girls; 1 in 5 boys have been sexually assaulted. When it comes to sexual harassment:
  - Thirty eight percent of all women and fourteen percent of men have reported experiencing sexual harassment at work (Kearl, Johns, & Raj, 2019).
  - 1 in 7 women and 1 in 17 men have sought a new job assignment, changed jobs, or quit a job because of sexual harassment and assault (Kearl et al., 2019).
  - Sixty percent of women say they have experienced unwanted sexual attention, sexual coercion, sexually crude conduct, or sexist comments in the workplace (Feldblum & Lipnic, 2016).
  - In some industries, more than 9 in 10 women say they have been sexually harassed (Puente & Kelly, 2018).
  - Over 85 percent of people who experience sexual harassment never file a formal legal charge, and approximately 70 percent of employees never even complain internally (Feldblum & Lipnic, 2016).

People with marginalized identities are at higher risk of victimization due to the manner in which society organizes around power dynamics.

Source: [Ending Sexual Assault and Harassment in the Workplace](#), National Sexual Violence Resource Center.

- **Small Group Exercise: Trauma-Informed Care & Report Back [30 mins]**

In order to create a more trauma-informed courthouse, courts should consider the following [six principles that guide a trauma-informed approach](#) adapted from SAMHSA.

Trainers will present the following principles:

- Safety
- Trustworthiness and transparency
- Peer support
- Collaboration and mutuality
- Empowerment, voice, and choice
- Cultural, historical, and gender issues

Trainers will ask participants to convene into small groups and - relying upon the title of the principle only - attempt to write one sentence (per principle) that expresses a value pertaining to the principle.

**Example:**

- Safety
  - Throughout the judicial environment, all staff and visitors feel physically and psychologically safe.

**Note:** Approximately 5 – 10 minutes should be reserved for groups to report back on their discussions.

As groups have reported back, Trainers may compare and contrast with the following model values:

- **Safety**
  - Throughout the judicial environment, all staff and visitors feel physically and psychologically safe.
- **Trustworthiness and transparency**

- Operations and decisions are conducted with transparency and the goal of building and maintaining trust among staff, visitors, and the general public.
- **Peer support**
  - All staff feel safe and comfortable acknowledging and supporting colleagues and visitors of all levels who may have experienced sexual and gender-based harassment.
- **Collaboration and mutuality**
  - Everyone has a role to play in a trauma-informed approach. One does not have to be a therapist to be therapeutic.
- **Empowerment, voice, and choice**
  - Every experience is unique and requires an individualized approach driven by the person who has experienced violence and/or harassment.
- **Cultural, historical, and gender issues**
  - Responses actively move past cultural stereotypes and biases, offer culturally responsive services, and recognize and address historical trauma.
- **Large Group Discussion: Accountability [7 mins]**

Trainers will ask:

- What are ways to hold people who have harassed accountable?

**Note:** If participants focus on disciplinary responses, trainers should encourage them to also think outside of the disciplinary context.

- **Learning Points on Holding Harassers Accountable [5 mins]**

Trainers will review the following learning points:

Depending on the severity of the incident(s):

- **Disciplinary**
  - Verbal or written warnings
  - Counseling
  - Ongoing supervision/coaching
  - Dismissal

- Reconciliation
  - Direct apology, with the consent of victim
- Timely, proportional, consistent, and non-preferential responses

Best practices in communicating with people who have harassed:

- Making it clear that harassment and violence are unacceptable.
- Clarifying that it might be necessary to speak to other entities if there are grounds to break confidentiality.
- Awareness that the person who has harassed might be unhappy about their behavior at some level.
- Awareness that sexual and gender-based harassment is about a range of controlling behaviors, not the pursuit of sex.
- Assisting the person who has harassed in understanding the likely harms, consequences, and costs to both the victim and themselves.
- (<https://www.endvawnow.org/en/articles/1982-perpetrator-accountability.html>)

- **Individual Exercise: Preventable Scenarios [5 mins]**

Trainers will ask participants to individually reflect on the following prompt and record their reflections. Take care to inform participants that – although they will be asked to report back their thoughts if they feel comfortable – the paper will not be collected in order to preserve their privacy.

- Reflect again on the victims and alleged harassers discussed during the Preventable Scenarios activity.
- Now that you have completed this module, what is one promising approach you may consider using in order to better respond to the needs of a victim, and hold a person who has harassed accountable?