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SEXUAL HARASSMENT IN ACADEMIC INSTITUTIONS:
THE EFFECTS OF GRIEVANCE PROCEDURES ON
DELIBERATION PROCESSES AND OUTCOMES

by

M. CAROLINE E. BURNLEY, M.A.

A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of

Doctor of Philosophy

Department of Psychology

Carleton University

Ottawa, Ontario

August 26, 1994

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SEXUAL HARASSMENT IN ACADEMIC INSTITUTIONS:
THE EFFECTS OF GRIEVANCE PROCEDURES ON
DELIBERATION PROCESSES AND OUTCOMES

submitted by

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in partial fulfilment of the requirements
for the degree of Doctor of Philosophy

Chair, Department of Psychology

Thesis Supervisor

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September 28, 1994

Abstract

The objective of this research was to investigate the differences in decision-making processes and decision propensities between two prototypical formal grievance procedures currently used at Canadian universities to hear sexual harassment complaints. Specifically, the effects of a three member committee versus a judge and jury procedure were investigated. The committee procedure is based on a model that serves to protect the complaint, whereas, the judge and jury procedure is based on a model that serves to ensure due process for the defendant. Mock committees and juries, comprised of male and female university students (N=192), viewed a videotaped presentation of the evidence and testimonies in a simulated sexual harassment complaint lodged by a female student against a male professor. Three independent variables were manipulated; the type of grievance procedure (committee/jury), a contextual variable (the time of the complaint; immediately after alleged events and before marks were received/significantly after alleged events and after marks were received) and an individual variable (the academic standing of the complainant; good student/average student). Following the videotapes, the committees/juries deliberated to a unanimous verdict of guilty or not guilty. The interactive effects of the procedures, the contextual and individual variables on group verdicts, individual verdicts, private ratings of guilt, and perceptions of complainant and defendant credibility were examined. Series of analyses of

variance indicated that the committee and jury verdicts were differentially affected by the time of complaint. Juries reached significantly more not guilty verdicts when the complaint was delayed than when the complaint was filed soon after the alleged events. In contrast, the time of complaint did not significantly influence committee verdicts. In addition, when the complaint was delayed, committees attained significantly more guilty verdicts than did juries. When the variables that were reported to contribute to the verdicts were examined, it appeared that jury members reported relying more on the evidentiary and contextual variables in their deliberations, whereas, committee members relied on the character variables, such as the personalities involved. Respondent characteristics (attitudes, beliefs and gender) did not have an effect on decision propensity. A major implication of this research is that different grievance procedures differentially consider various factors in a sexual harassment complaint and, therefore, can result in different decisions. Academic institutions must be cognizant of the implications of adopting particular grievance procedure models, including the differential weights that may be given to contextual and individual factors, when implementing or evaluating existing sexual harassment procedures.

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I would like to dedicate this dissertation to the memory of Dr. Nick Spanos, my advisor, my mentor, and my friend. Nick provided unconditional support and hours of debate and laughter. His dedication to research has left us with the knowledge that life is full of questions and research gives us the power to answer those questions. There is no end to the research possibilities. He will be sorely missed.

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Sexual harassment has occurred in the workplace and in academia for a very long time. However, it has only been within the last ten to fifteen years that organizations have become involved in attempts to recognize, prevent and deal with sexual harassment in their environments. The research that began in the late 1970's and early 1980's has led to an increased understanding that sexual harassment is not just a private and personal issue but one that affects the public as well; one that affects every man and woman in the workplace and in every educational institution in this country. While there has been an influx of survey research and experimental investigations on the issue of sexual harassment, there is still a great deal that needs to be investigated before sexual harassment is understood well enough to establish truly effective prevention and resolution measures.

The research, to date, has focused on six areas of inquiry; (1) **defining sexual harassment** (Bremer, Moore & Bildersee, 1991; Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormerod & Weitzman, 1988; Gruber, 1992; Padgitt & Padgitt, 1986; Reilly, Carpenter, Dull & Bartlett, 1982; Riger, 1991; York, 1989); (2) **explaining the concept of sexual harassment using different models and theories** (Gutek, 1985; Hoffmann, 1986; McKinney, 1992; Tangri, Burt & Johnson, 1992; Terpstra & Baker, 1986a); (3) **calculating the prevalence of sexual harassment in both the workforce and university settings** (Cammaert, 1985; Livingston, 1982; Popovich, Licata, Popovich, Martelli & Zoloty, 1986; Roscoe, Goodwin, Repp &

Rose, 1987; Rubin & Borgers, 1990; Schneider, 1987), (4) investigating the individual characteristics that influence perceptions of sexual harassment (Baker, Terpstra & Larntz, 1990; Jensen & Gutek, 1982; Kenig & Ryan, 1986; Malovich & Stake, 1990; Rubin & Borgers, 1990; Terpstra & Baker, 1986b; Valentine-French & Radtke, 1989); (5) investigating the contextual characteristics of the sexual harassment situation that influence perceptions of sexual harassment (Fitzgerald & Ormerod, 1991; Johnson, Stockdale & Saal, 1991; Jones, Remland & Brunner, 1987; Maihoff & Forrest, 1983; Terpstra & Baker, 1992; Thomann & Wiener, 1987) and (6) investigating the individual and organizational responses to sexual harassment (Benson & Thomson, 1982; Brandenburg, 1982; Cammaert, 1985; Gruber, 1989; Livingston, 1982; McKinney, Olson & Satterfield, 1988; Robertson, Dyer & Campbell, 1988; Schneider, 1987; Thomann & Wiener, 1987). This paper reviews and evaluates the theoretical and empirical literature on sexual harassment by focusing on these six main areas of inquiry. In addition, this paper presents an experimental study aimed at evaluating sexual harassment grievance procedures. While many procedures have been proposed and included in sexual harassment policies, there has been no empirical evaluation in terms of examining the variables that contribute to the decision-making processes or the decision propensities of these procedures.

Definitions of Sexual Harassment

Defining sexual harassment in itself has been a challenging exercise. To date, there is still no consistent, comprehensive or commonly used definition. The lack of a universal definition causes great difficulty when trying to interpret the survey research and experimental studies on sexual harassment. In addition, the lack of a clear definition for sexual harassment has an effect on the interpretation of the prevalence of this issue and the design of sexual harassment policies and procedures.

Legal definition of Sexual Harassment

The legal definition of sexual harassment, which is used in organizational policies and civil court cases, is based on the definitions provided by the Canadian Human Rights Act and the Canadian Labour Code (The Equal Employment Opportunity Commission Guidelines are the American equivalent). The Canadian Labour Code requires each employer to take steps to prevent sexual harassment in the workplace, as sexual harassment is considered a form of sex discrimination. According to the legal definitions, sexual harassment occurs when: (1) submission to unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature is made either explicitly or implicitly as a term or condition of employment or used as a basis for employment decisions (such as pay, promotion or job assignment) and/or; (2) such conduct has the purpose or effect

of interfering with an individual's work creating an intimidating or offensive working environment (Canadian Human Rights Act, 1981; Webb, 1991). These definitions have been expanded to include sexual harassment in academic institutions where an individual's academic status or accreditation may be affected.

The first definition has also been called sexual coercion or *quid pro quo* ("this for that") harassment. Typical examples of *quid pro quo* harassment have included promises of job promotions by employers in exchange for sex from employees or promises of good grades by professors in exchange for sex from students. These types of sexual bribery are considered to be the most blatant and severe types of sexual harassment according to the current definitions of sexually harassing behavior and most people agree that such abuses of power are wrong and should not be tolerated.

The second definition, which includes the sexual annoyance or "hostile environment" condition is one in which the sexually related conduct is hostile, intimidating and offensive but does not have a direct link to any tangible benefit or harm (Aggarwal, 1992). According to Aggarwal (1992), this second definition contains behavior that involves persistent requests for sexual favours that create an offensive work environment and all other conduct of a sexual nature that demeans and humiliates. This second definition has created a great deal of controversy. This part of the

sexual harassment definition was added to the legislation after the initial definition of *quid pro quo* harassment. The primary element to be considered, according to this definition, is the effect that the behavior has on the individual who is harassed. If the behavior causes an environment that impedes or interferes with the worker's ability to do his/her job then it may be harassing. The controversy lies in the argument that what may be considered offensive by one person may not be considered offensive by another. There are no universal codes of acceptable/unacceptable behavior. It consequently becomes impossible to define sexually harassing behaviors because it is dependent upon the perception of each individual person. However, it has been argued that basing decisions of sexual harassment on individual perceptions and interpretations ignores, denies and, in fact, negates the idea of an external reality (Roiphe, 1993). Roiphe would argue that "sexual harassment" is not an empirically validated issue but a socially-constructed phenomenon based on individual perception.

To counter the arguments that the definition of sexual harassment has become too inclusive and subjective, it has been suggested (Webb, 1991) that each claim of sexual harassment must be examined on a case by case basis, and in order to be considered illegal it must meet three criteria: (1) it occurs because of the person's sex - it is related to

or about sex; (2) it is unwelcome, not returned, and not mutual; and (3) it affects the terms or conditions of employment, including the work environment itself. However, these criteria have not solved the problem of the subjective nature of sexual harassment definitions. This argument is somewhat circular in that the three criteria may produce differing decisions concerning whether harassment occurred depending on the perceptions of the individuals involved and the perceptions of the people assessing the situation.

Behavioral Definition

The behavioral definition of sexual harassment is the one that is used on an everyday basis and when conducting survey research and experimental research on the issue of sexual harassment (Webb, 1991). The most common definition is **"deliberate and/or repeated sexual or sex-based behavior that is not welcome, not asked for and not returned"** (Webb, 1991, p.25-26). This definition differs from the legal definition in that it discusses the behavior itself, rather than focusing on the consequences of the behavior (i.e., job loss or hostile environment). The utility and implications of this definition require an understanding of its composite elements, namely, the definitions of the difference between sexual behavior and sex-based behavior, the requirement that the behavior be persistent and deliberate and the requirement that the behavior is not welcome, not asked for and not returned.

There is a distinction between **sexual behavior and sex-based behavior**. **Sexual behavior** has been defined on a continuum (by researchers) from the least severe (e.g., leering, ogling, joking, innuendo, sexual material such as nude pictures, body language or undue attention) to the most severe (e.g., verbal or physical sexual advances, fondling, grabbing, sexual bribery and sexual assault) (Adams, Kottke & Padgitt, 1983; Benson & Thomson, 1982; Cammaert, 1985; Kenig & Ryan, 1986; Maihoff & Forrest, 1983; Padgitt & Padgitt, 1986; Schneider, 1987). While there appears to be consensus that the most severe forms of sexual behavior are not acceptable, there remains controversy over whether the less severe forms of sexual behavior constitute sexual harassment.

Most researchers use their own operational definitions of sexual harassment and these definitions appear to vary according to type and severity. Gruber (1992) found that similar harassment experiences were denoted by different labels (i.e., the following terms have been used to denote quid pro quo harassment: sexual bribery, verbal negotiations, pressure for sexual favours and overt demands for sexual activity), and the categories presented in most of these studies were not mutually exclusive and exhaustive. Therefore, it becomes very difficult to compare experimental studies on sexual harassment due to a lack of a commonly accepted definition of sexual harassment. The variation due to the experimental manipulation of the definition is in turn

affected by respondent variation.

The primary variable that most often predicts variation in definition of sexual harassment is the sex of the individual rater (Riger, 1991). In a number of studies it was found that men label fewer behaviors as sexual harassment than women, especially the more subtle forms of sexual teasing, leering, and gesturing (Kenig & Ryan, 1986; Konrad & Gutek, 1986; Powell, 1986). Gutek (1985) found that men find sexual overtures flattering, whereas, women are more likely to find them insulting, uncomfortable and unwanted. Not only do they find it more flattering, men are also more likely to think that women are flattered by sexual overtures as well. Therefore, one can see the problems that can arise when trying to decide if the sexual behavior is sexually harassing.

Sex-based behavior differs from sexual behavior in that it occurs on account of sex or gender, which means that a person engages in negative behavior that is directed at, or at least has an impact on only one gender (Webb, 1991). An example of this may be when a person constantly tells jokes that demean women as a whole group and are not necessarily targeted towards one individual. This type of behavior is also considered by some to constitute sexual harassment.

Another component specified in the common behavioral definition of sexual harassment involves the **persistent and repeated nature of the behavior**. For some of the more severe forms of sexual harassment, especially ones that involve

sexual bribery or sexual assault, Webb suggests it does not have to be repeated to be considered harassment. However, the less severe forms of sexual harassment (joking, leering, verbal advances) require that they be repeated before the behavior would be defined as harassing. Related to this, the issue becomes the number of times that is required before it is considered harassing. Is two times enough? half a dozen? a dozen? The issue of tolerability becomes part of the definition as well. According to Aggarwal (1992), the guideline in tribunal hearings is that the more severe the behavior the fewer times it needs to be repeated before a reasonable person would define it as harassment. The less severe the behavior, the more times it needs to be repeated before a reasonable person would define it as harassment. A hostile environment claim, for example, requires a demonstrated pattern of offensive conduct (Aggarwal, 1992).

The final component of the common behavioral definition of sexual harassment requires that the behavior is **not welcome, not asked for and not returned** (Webb, 1991). Webb (1991) suggests that the less severe the behavior, the more responsibility the receiver has to speak up and inform the initiator that the behavior is not welcome; the more severe the behavior, the less responsibility the receiver has to speak up.

However, those who endorse models that emphasize the lack of power of recipients of sexual harassment argue that

whatever the form of sexual harassment, the power differential still exists and the potential for negative effects still exists as well. Therefore, it becomes problematic when it is expected that the receiver put her/himself in a situation that might endanger her/his position. According to Aggarwal (1992), a verbal protest is not necessary. If the evidence shows that the complainant demonstrated through actions that the conduct was unwelcome, it would be sufficient to support a finding of sexual harassment. In addition, it may not be necessary that a person expressly object to their harasser if a "reasonable person" ought reasonably to have known that the behavior is not acceptable.

In contrast, Roiphe (1993) believes that such a view of sexual harassment does nothing to help the women's movement but only serves to hinder it by reinforcing and perpetuating the idea of "women as victims". It is only when women defend and speak up for themselves that women will no longer be seen as powerless (Roiphe, 1993).

In attempting to address the issue of sexual harassment in the workplace, a number of workshops have emerged. These propose that employers explain the concept of sexual harassment by describing various acceptable and unacceptable behaviors. Based on the controversies surrounding the elements of any behavioral definition such a strategy may be problematic. Indeed, Wall (1992) has suggested that the current scientific, legal and philosophical definitions of

sexual harassment ignore the interpersonal features that define the concept (Wall, 1992). Wall (1992) defines sexual harassment as a form of communication that violates the recipient's privacy rights and as a defect in interpersonal relations and wrongful communication. According to Wall (1992), the situation only becomes sexually harassing if the initiator refuses to respect the recipient's right to refuse to discuss sexual matters with the initiator. Wall suggests that the only way to distinguish between "accidents and unfortunate circumstances" and "sexual harassment" is to encourage clear communication. If objections are made and the behavior continues, the harassment is clear.

Wall also believes that sexual harassment is not necessarily tied to discrimination or to coercion. Many believe that sexual harassment exists when intimidation occurs between two individuals of unequal power (Aggarwal, 1992). This leads to discrimination or coercion. Wall disagrees with this common perception and cites the survey research that shows that most sexual harassment occurs between co-workers of equal positional power in the workplace. He suggests that the mental state of the individuals involved, not the power differential between them, defines the situation as sexual harassment. Sexualized behavior may not be coercive and, therefore, not sexually harassing if the person who is being approached does not see it that way. He believes that while some people may find socialized situations coercive, others

may find them an opportunity for advancement and, therefore, not harassing. Wall concludes that many definitions of sexual harassment are too inclusive because they fail to capture the recipient's mental state and reaction as well as the initiator's intentions.

Contrary to Wall's portrayal, "mental states" do play a significant role in sexual harassment situations. In order for a complaint to be filed, there has to be a perception on the part of the complainant that a person's behavior was sexually harassing. In fact, the most common axiom in sexual harassment offices is that if you think that you have been sexually harassed, then chances are you were. What is not given any attention in such an approach is the intention of the initiator. In line with this, formal complaint hearings of sexual harassment in university settings and in human rights tribunals focus on the intensity and gravity of the behavior and the perception of the complainant not the intent or motive of the accused. It is the result or effect of an act or acts that is important in the decision (Aggarwal, 1992). This is often the case when behavior is viewed as discrimination. Whether one intends to discriminate does not have any bearing on whether discrimination occurred.

Models of Sexual Harassment

Tangri, Burt and Johnson (1992) described three different explanatory models of sexual harassment: (1) the natural model, (2) the organizational model and (3) the sociocultural

model. Tangri et al. (1992) attempted to investigate the validity of the three models through experimental testing and found support for the organizational and sociocultural model. While a number of explanations have been offered (Fitzgerald & Shullman, 1993; Gutek, 1985; Hoffman, 1986; Paglia, 1992), most of them generally fit into one of the three models proposed.

The Natural Model

The natural model asserts that much of the behavior that is defined as sexual harassment, according to current definitions, is not in fact meant to be sexually harassing but is simply "a natural attraction between people" (Tangri et al., p.90). An assumption of this model is that men and women engage in sexual behavior in and out of the workplace by choice; it is a normal mutual attraction between two individuals. Another assumption is that sexual behavior occurs but, in most cases, the intent of the sexual behavior is neither to harass nor discriminate. According to this model, behavior that is meant to be sexually harassing can be attributed to the "idiosyncratic proclivities of a minority of men" (Tangri et al., p. 91).

Those who follow this view (Roiphe, 1993; Wall, 1992) perceive that sexual behavior at work does not have the intention or the effect of discriminating against women. This model denies systematic harassment of women. In her book, *The Morning After*, Roiphe (1993) addresses the issue of sexual

harassment on college campuses. She questions the feminist view of sexual harassment as a product of a patriarchal society and suggests that the current definitions of sexual harassment, which include any unwanted sexual attention that makes a person feel uncomfortable, are going too far. She argues that if people are to come together a certain amount of miscommunication and unwanted sexual attention is inevitable (natural model). She says, "clearly, the truth is that if no one was ever allowed to risk offering unsolicited sexual attention, we would all be solitary creatures" (p.87). According to Roiphe, sexual harassment has become a label used to pejoratively classify everyday experiences of sexual attraction between individuals. Moreover, Roiphe argues that the label is applied to a point where the issue of sexual harassment on campus is "spiralling out of control" (p.93). This model has not found empirical support (Tangri et al., 1992).

The Organizational Model

The organizational model states that institutions (including academic institutions) provide an opportunity structure that makes sexual harassment possible. These structures include differential power, disproportionate sex ratio, questionable occupational norms, and lack of knowledge and availability of grievance avenues and alternatives. Tangri et al. (1992) believe that it is the infrastructure of the workplace that provides opportunities for sexual

aggression. Gutek and her colleagues (Gutek, Cohen & Konrad, 1990; Gutek & Morasch, 1982; Konrad & Gutek, 1986) ascribe to this model of sexual harassment as well and focus on what they call "sex role spillover". Their model maintains that when occupations are dominated by one gender (gender composition), that group's gender role will influence the treatment of the other gender in the workforce (or any institution). In many cases, the workplace is dominated by men and the men's gender role influences the treatment of the women in that workplace.

This model has found empirical support in the research literature (Tangri et al., 1992; Konrad & Gutek, 1986; LaFontaine & Tredeau, 1986; Schneider, 1987). Schneider's study of graduate women, sexual harassment and university policy, found that sexual harassment was less likely to occur under circumstances where a significant number of females were in the department and a relatively decentralized decision-making structure was in place. In a study that looked at sexual harassment of women in traditional male occupations, LaFontaine and Tredeau (1986) found that there was a strong negative relationship between the level of perceived equal employment opportunity for women in a company and the level of harassment reported. Both studies lend support to the theory that the organizational structure plays a significant role in sexual harassment.

The Sociocultural Model

The third model, described by Tangri et al. (1992) endorses the view that sexual harassment is a manifestation of our society, one that legitimizes the patriarchal system, where men rule and women are subordinate. According to the sociocultural model, the dominant position of males is maintained and supported by the culture patterns of male-female interaction, and economic and political superordinancy of males (Tangri et al., 1992). According to this feminist model, the function of sexual harassment is to "manage ongoing male-female interactions according to sex status norms, and to maintain male dominance by intimidating, discouraging, or precipitating removal of women from work" (p.96). Similarly, Hoffman (1986) states that sexual harassment is closely tied to historical patterns of sex-role interaction and the social structural level that reinforces and perpetuates the "subordination of women as a class" (p. 107).

As with the other models, this model also holds that gender is the best predictor of sexual harassment, above and beyond organizational position, and that women would be more likely than men to be victims. Numerous studies support this prediction and have found that women do report a significantly larger number of sexual harassment incidents than men and men are more often than women to be the harassers. Research has also found that women's responses to sexual harassment signify a feeling of powerlessness; women try to avoid the situation

rather than expect to be effective in combatting it individually or to receive support for alleviating it from the organization (Cammaert, 1985; Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormerod & Weitzman, 1988; Gruber, 1989; Jones, Remland & Brunner, 1987; Livingston, 1982; McKinney, Olson & Satterfield, 1988; Popovich, Licata, Nokovich, Martelli & Zoloty, 1986; Schneider, 1987).

Although variations of these models exist, the three models outlined by Tangri et al. (1992) have provided the theoretical underpinnings that have led to the current research on sexual harassment. The current models have provided a good theoretical basis for understanding sexual harassment, the implications of which can be found in the recent attempts by institutions to deal with this issue. Depending upon which theoretical framework is used, the issues to be addressed in order to deal with sexual harassment in the workplace and the university setting differ. If harassment is believed to be a result of organizational structure and cultural sex roles (as the theory and research suggest) then training workshops should focus on organizational restructuring and sociocultural intervention rather than on individual skills training or information dissemination, which the natural model would support. At this point in time, however, the current workshops use the latter rather than the former approach (Fitzgerald & Shullman, 1993). This may be due to the fact that organizations think it is quicker and easier

to change behaviors of individuals than to change the whole social structure, which would take considerably longer.

Prevalence of Sexual Harassment

A number of surveys have been conducted in order to assess the prevalence of sexual harassment in both the workplace and educational institutions. Studies show that 40-50% of working women and 15% of working men report having experienced sexual harassment in the workforce (Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormerod & Weitzman, 1988; Gutek, 1985; Littler-Bishop, Seidler-Feller & Opaluch, 1982; Niebuhr & Boyles, 1991; US Merit Systems Protection Board, 1987). The studies of sexual harassment in university settings show that 20-65% of female students and 10-15% of male students have experienced sexual harassment at their academic institution (Benson & Thomson, 1982; Cammaert, 1985; Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormerod & Weitzman, 1988; Maihoff & Forrest, 1983; McKinney, Olson & Satterfield, 1988; Popovich, Licata, Nokovich, Martelli & Zoloty, 1986; Reilly, Lott & Gallogly, 1986; Roscoe, Goodwin, Repp & Rose, 1987; Schneider, 1987). However, these percentages must be interpreted with caution because prevalence rates were dictated by the definition of sexual harassment used and the sample of subjects used as can be seen by the substantial range in rates of occurrence. The definitions and samples varied considerably across studies. The samples were derived from stratified random samples of

federal workers, representative samples of the workforce from community surveys, and surveys of military, airline and university personnel among others. One study has shown that there is a significant difference between workers' and university students' definitions of sexual harassment, in that university students tend to hold more liberal definitions (Baker, Terpstra & Cutler, 1990). Moreover, studies that reported high prevalence rates included more forms of sexual harassment in their definitions.

Gaining accurate estimates of the prevalence of sexual harassment is not only affected by differing definitions but is also limited by a number of other factors. Carr (1991) suggested that survey estimates may underestimate the problem of sexual harassment because the surveys did not include the responses of those who have left the job or the academic institution because of sexual harassment. However, because it is difficult to know how many actually did leave their job because of sexual harassment, the relevance of this factor cannot be determined. Another factor that has been implicated in the collection of prevalence data are the measures that are used. Cammaert (1985) found that the self-reported data on sexual harassment are influenced by the respondent and researcher perceptions and definitions of sexual harassment. In her study, Cammaert varied the type of question asked and the amount of the description provided about sexual harassment and found these two variables influenced the percentage of

students who reported experiencing sexual harassment. Carr (1991) also suggested that a number of personal factors may impede the process of acknowledging sexual harassment. Studies (Cammaert, 1985; Schneider, 1987) show that individuals who have experienced sexual harassment sometimes report feeling very shameful, embarrassed and guilt-ridden. Carr (1991) suggests that these personal feelings may affect whether an individual publicly acknowledges the harassment. Given the numerous shortcomings with the current methods of collecting data on sexual harassment prevalence estimates must be interpreted with caution.

Perceptions of Sexual Harassment

Effect of Individual Characteristics

A number of investigative studies have assessed the effects of certain characteristics of the respondents on their assessments of sexual harassment situations. Gender, gender role beliefs, gender role identity, age, attitudes toward women, religiosity and self-reported past experience with harassment have been found to have some effect on perceptions of harassment (Baker, Terpstra & Larntz, 1990; Bremer, Moore & Bildersee, 1991; Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormerod & Weitzman, 1988; Jensen & Gutek, 1982; Malovich & Stake, 1990; Powell, 1986; Terpstra & Baker, 1986b; Valentine-French & Radtke, 1989).

The gender of the respondent appears to be the most influential variable in definitions of sexual harassment. In

particular, women are more likely than men to identify specific behaviors as sexual harassment (Gutek, 1985; Kenig & Ryan, 1986; Padgitt & Padgitt, 1986), men are significantly more accepting of behaviors currently defined as sexual harassment than women (Reilly, Lott & Gallogly, 1986) and men are more likely to believe that women contribute to their own harassment (Kenig & Ryan, 1986; Rubin & Bergers, 1990). Kenig and Ryan also found that men and women have different views concerning how they think sexual harassment should be handled. Men believe that it should be handled privately, whereas women believe that the organizations should be involved.

Recently, however, Baker, Terpstra & Cutler (1990) have questioned the generality of the gender differences found in perceptions of sexual harassment. They suggest that the differences found in most of the experimental studies on sexual harassment may have been due to the ambiguousness of the measures used. Very general questions were used, which may have resulted in more ambiguous interpretation, which in turn may have led to greater gender differences in the responses. Indeed, research shows that males tend to interpret more ambiguous social-sexual cues as positive signs of attraction than females do (Gutek, 1985). To examine this question, Baker et al. (1990) investigated the perceptions of sexual harassment of 409 state government employees in the United States and found few gender differences. Thus, by increasing the specificity of the scenarios used, ambiguity

was decreased, and, therefore, may have more accurately tested the differences in male and female perceptions. However, the generalizability of their conclusions are limited to less ambiguous situation scenarios. Unfortunately, a number of real sexual harassment situations are very ambiguous.

Baker, Terpstra and Cutler (1990) also compared their findings with results from studies that used student subjects and found that while the ordering of incident severity was similar, the number of incidents perceived as harassment was significantly higher for the workers than for the students. They concluded that differences in perception may occur between individuals with different organizational backgrounds and, therefore, gender differences may interact with other variables to have an effect on perceptions of sexual harassment and it may not solely be gender differences that are having an effect.

Effect of Contextual Characteristics

The most common method of measuring perceptions is to evaluate individual responses to a simulated sexual harassment situation in which a number of contextual characteristics have been manipulated. The contextual characteristics that have been shown to have a significant effect on perceptions of sexual harassment include gender and status of the initiator and the recipient, the severity of the behaviors, and the recipient's response (Baker, Terpstra & Larntz, 1990; Cohen & Gutek, 1985; Gutek, Morasch & Cohen, 1983; Jones, Remland &

Brunner, 1987; Popovich, Licata, Novokich, Martelli & Zoloty, 1986; Thomann & Wiener, 1987; Valentine-French & Radtke, 1989).

Even though research from the workplace and academic institutions indicates that co-workers are the most likely harassers (U.S. Merit Systems Protection Board, 1981; Bremer, Moore & Bildersee, 1991) the experimental research indicates that sexual harassment is perceived as more harassing and serious if performed by a superior than by a co-worker or a peer (Bremer, Moore, & Bildersee, 1991; Gutek, Morasch & Coher, 1983; Popovich, Licata, Nokovich, Martelli & Zoloty, 1986). In two studies, (Popovich, Licata, Nokovich, Martelli & Zoloty, 1986; Bremer, Moore & Bildersee, 1991), which assessed university students' perceptions of sexual harassing behaviors, it was found that the same behavior was considered to be more definitely sexual harassment if it was exhibited by a supervisor than by a co-worker or a peer. This indicates that the position of the harasser is a factor in determining the degree to which the behavior is considered to be sexual harassment.

The gender of the initiator has also been found to have an effect on perceptions of harassment. However, this effect has been qualified by an interaction between the gender of the initiator and the gender of the recipient. When a male harasses a male or a female it is considered more sexually harassing than when a female harasses a male. Female to female

harassment has not been studied, mainly because female to female sexual harassment appears to be very rare (Reilly, Lott & Gallogly, 1986). However, one study found that the most sexually harassing situation is perceived to be between a male initiator and a male recipient (Kiiffner, Burnley & Spanos, 1993). Responses from subjects in Kiiffner et al.'s study (both male and female) suggested that this may occur because while there may be some ambiguity concerning the intent of the male and the response of the female when he is engaging in sexualized behavior with the female (it may be interpreted as socio-sexual behavior), the intent of a male engaging in sexualized behavior with another male may not be as ambiguous, especially if the sexual orientation of the male recipient is not known. Kiiffner et al. (1993) suggested that homophobia may have influenced the respondents' interpretations. From a homophobic perspective, any type of homosexual encounter is considered more sexually harassing because relations between people of the same sex is "not normal behavior". Sexual harassment between people of the same gender needs to be investigated further in order to understand the perceptions of these interactions.

The response of the recipient is yet another contextual characteristic that has been shown to have an effect on perceptions of sexual harassment (Benson & Thomson, 1982; Jones, Remland & Brunner, 1987; Livingston, 1982; Schneider, 1987; Thomann & Wiener, 1987; Valentine-French & Radtke,

1989). It is important to understand not only how recipients respond to situations of harassment but also to consider how the responses of recipients influence perceptions of harassment.

Surveys of recipients of sexual harassment indicate that the most ineffective response style is to try and ignore the person or situation, despite the fact that this tends to be the most common response (Benson & Thomson, 1982; Cammaert, 1985; Schneider, 1987). Benson & Thomson (1982) asked university students who had been harassed by professors how they handled the situation. Many of the women stated that they did not express their true feelings when harassed. Although the majority (70%) reported that they communicated in various ways that the sexual attention was not acceptable a number of these recipients felt that the aspect of teacher-student relationship severely inhibited their initial attempts to remedy the situation. The students used a number of indirect tactics, including (1) ignoring sexual innuendos, (2) directing personal disclosures of the professor back to academic discussions, (3) using physical actions such as bringing a friend to the professor's office or leaving the office door open and (4) mentioning their boyfriends or husbands. These styles of responding were somewhat effective in stopping the harassment. Thirty percent reported they did not discuss the harassment with the initiator, and in the majority of these cases, the harassment continued. A

significant percentage (44%) used the response style of selective avoidance, that is no contact whatsoever with the instructor after the incident of sexual harassment. This strategy was relatively effective in stopping the harassment. Finally, consistent with most other research in the area (Cammaert, 1985; Schneider, 1987), very few reported the incident to someone in authority or to an organization that could help or provide advice.

In the workforce, the most common response style appears to be asking or telling the harasser to stop, followed by ignoring the harassment, reporting it to a higher authority and using formal complaint channels (U.S. Merit Systems Protection Board, 1987). The response choices were related to initiators' and recipients' job status. Recipients ignored, joked with or avoided co-workers as frequently as supervisors. However, they more frequently objected to co-workers than to supervisors. At the same time, they were more likely to report or take formal action against a supervisor than a co-worker.

It is relatively clear that most recipients of sexual harassment do not report the situation to anybody, other than perhaps, friends and family. Recipients have reported that they chose not to make a formal complaint out of fear of not being taken seriously or that they would be held responsible (Valentine-French & Radtke, 1989). Is this fear justified? The research shows that the more negative and aggressive the

response (in the form of making a complaint) the more sexually harassing the behavior appears to those deciding on the issue of sexual harassment (Terpstra & Baker, 1988; Terpstra & Baker, 1992; York, 1989; York, 1992). For example, York (1989) asked college and university equal employment opportunity officers and university students to judge 80 incidents of possible sexual harassment. They were asked if the incidents were cases of sexual harassment and if they would advise that a complaint be made. The recipient's reaction was one of three important aspects in weighing their decisions (the other two being evidence of coercion and job consequences). The recipient's reaction was dichotomously manipulated, such that the recipient seemed to encourage initiator's behavior or recipient tried to discourage initiator's behavior. If the recipient encouraged the initiator's behavior it was not perceived to be as sexually harassing as it was when the recipient tried to discourage the initiator's behavior.

Indeed, other studies have found this as well. Gutek (1985) surveyed working men and women in Los Angeles and found that both men and women were more likely to perceive a situation as harassing if the recipient's responses were negative rather than positive.

More importantly perhaps is how the courts interpret the importance of response in deciding whether sexual harassment occurred or not. York (1992) performed an analysis of 206

federal district and appellate sexual harassment cases and found that judges used recipient's reaction (complaint/no complaint), form of harassment (verbal/physical) and job consequences (none/victim was fired or quit) to make their rulings. Therefore, it would appear that in order for a case of sexual harassment to be taken seriously by the legal system a formal complaint appears to be a necessary condition in perceptions of sexual harassment.

Taken together, the survey and experimental research shows that individual characteristics and contextual characteristics, separately and together, can have significant effects on perceptions of harassment. If one of the goals for the future is to draft and implement effective policies and procedures for sexual harassment then it is important to understand those factors that influence the perceptions of those involved in the situations and those who are to decide about the guilt or innocence of a person accused of sexual harassment.

Sexual Harassment in Academic Institutions

According to the organizational/sociocultural models of sexual harassment, in order to deal with the problem of sexual harassment it is important to change the power structure of the institutions of our country (labour and academic). Central to such change is the belief that the educational system should provide for the equal rights and privileges of boys and girls as well as men and women. More specifically,

one of the factors seen as central to the advancement of equal rights is to gain advanced education to compete for the higher status found in professional positions. People need equitable access to an education free of harassment.

Although, as we have seen, sexual harassment is not unique to the academic institutions, there are certain features that make the study of harassment in universities and colleges very challenging. The focus of the following analysis is on one of the most common situations found in formal complaints of sexual harassment: a professor accused of sexually harassing a student. Students may be in less of a position to deal with sexual harassment on an individual basis and, therefore, may be more likely to require effective institutional support, hence making this an appropriate starting point.

Organizational Structure of Academic Institutions

The survey and empirical studies that have investigated sexual harassment in academic institutions have found that the organizational structure of these institutions may play a significant role in the perpetuation and maintenance of sexual harassment. Universities are organized such that the decision structures are vertical, strong tenure systems are in place, enormous reverence is given to academic freedom, there is a lack of accountability due to a diffusion of authority, there is a shortage of women in positions of authority, there are unusual work demands and very subjective criteria are used to

assess academic career progress and advancement. These structural elements contribute to the maintenance and abuse of power, the same abuse of power found in sexual harassment (Carr, 1991; Riger, 1991). As Hoffmann (1986) has pointed out, faculty enjoy relative autonomy in their research and teaching activities, and have been decisively involved in campus governance, especially if they are tenured faculty. This organizational structure leads to a real power difference between professors and students, one that can readily be used to manipulate, especially given the dependency students have on professors. Students depend on professors for a variety of opportunities (teaching and research assistantships), resources (letters of recommendation), and critical feedback (grades, thesis direction and support), all of which are necessary for students to complete their degrees and advance to the next stage of their career. Students have reported that, in response to sexual harassment by a faculty member, they have had to change committees, change major advisors, temporarily drop out of the program, quit the program, change majors and avoid or drop out of a course (McKinney, Olson & Satterfield, 1988). All of these actions and the associated stresses that go along with having to take these types of actions have a considerable impact on the education of the students and would not have been necessary if sexual harassment had not occurred. Because of their position and status, professors have a great deal of power over students

and students' futures and a great deal of responsibility to refrain from abusing that power (McKinney, Olson & Satterfield, 1988).

Consensual Relationships Between Professor and Student

There currently exists no policy discouraging or prohibiting consensual relationships between faculty and students in any university in Canada. There has been a great deal of controversy whether such statements or policies should exist. Two American universities, Harvard and the University of California have issued such statements. These "amorous relationship" statements define sexual relationships between faculty and students as unprofessional conduct that risk charges of sexual harassment. These measures are designed to acknowledge the power differential between faculty and students and, therefore, prohibit the exploitation of this power. The policymakers argue that since sexual harassment does occur between individuals of unequal power and status, and since faculty/student relationships have such a power differential, all sexual relationships between the two are prohibited to prevent abuse of some students.

However, there have been two main arguments against the drafting and implementation of such policy statements. One is based on a theoretical argument, the other based on a law that guarantees freedom of association. Hoffman (1986) believes that implementing a policy is not a form of liberation as the policymakers imply but is yet another form of paternalism. She

argues that "amorous relationship statements assume that the relatively powerless group (students) is incapable of empowerment and in seeking to prevent its victimization, reinforce and perpetuate its powerlessness and vulnerability" (Hoffmann, 1986, p. 113). She goes on to suggest that educational institutions that aim to develop students into mature and responsible citizens should have policies that encourage mature and responsible behavior not undermine these aims, which is what amorous relationship policies do. Hoffman concludes that universities need policies that empower and return control to victims, encourage social interaction based on mutual concern, trust and respect, not policies that perpetuate another form of victimization of women.

Others have argued that implementing "amorous relationship policies" violates the constitutional right of freedom of association. They argue that both students and faculty in university settings are of legal age and old enough to choose whom to have relationships with (Hoffman, 1986; Schneider, 1987). In addressing the possible conflict of interest of a faculty member to be intimately involved with a student when they are in a position to evaluate them, it has been suggested that in order to meet the professional responsibility of being ethical, the faculty member should take the responsibility of having someone else grade or serve on the student's committee (Schneider, 1987). This appears to be a likely compromise in a number of academic institutions

and one that allows students to choose whether they want a relationship with a faculty member without jeopardizing their academic careers.

Effects of Sexual Harassment on Students

The reports of the effects of sexual harassment on students include a range of costs to the individual. Benson & Thomson (1982) found that students report a loss of self-confidence due to uncertainty about standards of performance (whether rewards, such as a high grade, may have been based on sexual attraction rather than one's abilities), disillusionment and cautiousness with all male faculty members, and missed opportunities (academic and work opportunities, letters of recommendation and grades). Emotionally, students suffer from confusion, anger, depression, frustration and anxiety (Cammaert, 1985; Schneider, 1987). In sum, the student's professional development is hindered when sexual harassment becomes part of their educational process (Rubin & Borgers, 1990).

Sexual Harassment Policies and Grievance Procedures

In order to address the problems of sexual harassment in academic institutions, universities have attempted to draft and implement policies and procedures. Not only do the policies address complaints of harassment but they also attempt to provide guidelines for all university personnel and students to follow.

Sexual harassment policies and grievance procedures vary from university to university. Some universities follow the policies and procedures used for other types of complaints on campus, while others follow the provincial legislation concerning sexual harassment. Most policies express the disapproval of sexual harassment of faculty, students and staff of the institution and attempt to define sexual harassment with examples of behaviors or situations that may constitute sexual harassment in a university setting. Most policies also include a description of the procedural options that are available if a complaint of sexual harassment is made.

Grievance Procedures

In addition to defining sexual harassment and stating that sexual harassment will not be tolerated, university sexual harassment policies also outline the various procedures that can be followed if one has a sexual harassment complaint. Three options are usually specified in most policies: informal procedures, mediation and formal procedures. The complainant usually consults with a designated sexual harassment advisor or coordinator in order to determine the most effective procedure to follow for his/her individual case.

Informal procedures are procedures that are used to make the initiator of the harassment aware that his/her behavior is not welcome or wanted. No formal complaint need be launched. Informal procedures may include writing a letter to the

harasser or leaving a highlighted sexual harassment policy for the harasser. This may be enough to stop the harassment.

Another procedural option may involve mediation between the complainant and the person accused of harassment. A written statement must be filed by the complainant before mediation begins. Mediation involves having the two parties meet with a mediator to come to a resolution that is mutually beneficial. A mediational model seeks to resolve the problem without seeking punishment for the offender. It has been suggested that this model may work particularly well with complaints involving complicated social behavior and persistent opportunities for misunderstanding (Brandenburg, 1982). Medlicott (1993) found that those who support the use of mediation believe that it is empowering for the complainant and educational for the defendant. It can "establish the groundwork for a new understanding between the two parties that is beneficial to both" (p.210).

However, others cite a number of problems with dispute-resolution procedures such as mediation (Medlicott, 1993; Riger, 1991). Using mediation does not result in punishment of the offender, therefore, the offender may be more likely to repeat this type of behavior. Indeed, some have suggested that mediation is simply a method of avoiding having to discipline faculty members (Medlicott, 1993). There is also an assumption, albeit illogical, that the complainant and defendant have equal power in the process of mediation. As

Riger (1991) points out "position and status characteristics that reflect levels of power do not disappear simply because they are irrelevant to the informal process" (p.501). Medlicott's survey of sexual harassment coordinators opposed to mediation found that they believed "a sexual harassment victim shouldn't be expected to mediate with her attacker" (Medlicott, 1993, p.211).

The third option available to the complainant is to have the complaint heard in a formal proceeding. Variations of formal proceedings exist across universities, especially with respect to the use of legal counsel. Some universities have a formal committee hearing where the complainant, defendant and others who may be interviewed are questioned by a committee comprised of members from the university community (which usually include a faculty member, staff member and student member). The board makes recommendations to a Dean, Vice-President or President who makes the final decision and rules on the form of sanction according to union regulations, if necessary.

Other formal procedures use the adversarial model used in civil court cases, in which a judge, lawyers and a jury hear the complaint. Brandenburg (1982) argues that the more formal aspects of the adversarial procedure, including the use of legal counsel, appear to threaten the complainant and defendant and this may diminish the cooperation and frankness of those involved. There are no empirical data to support

this hypothesis and, therefore, it is highly premature at this point in the research to make such a conclusion.

Others argue that sexual harassment is a serious issue that needs to be seen as intolerable by the institution. Formal procedures of complaint, that involve punishment of the offender, send a clear message to the university community that such behavior is unacceptable and subject to sanctions (Medlicott, 1993).

Regardless of the formal procedure used, whether it be jury or committee, the burden of proof is the same. In any formal proceeding dealing with sexual harassment in a university setting, the requirement for onus and standard of proof is on the balance of probabilities or preponderance of evidence. Preponderance of evidence is evidence that is of greater weight or more convincing than the evidence that is offered in opposition to it; that is, evidence which as a whole shows that the fact sought out to be proved is more probable than not (Black, Nolan & Connolly, 1979). This standard of proof is used to hear sexual harassment complaints because sexual harassment is considered a civil issue, not a criminal issue, where the standard of proof is different. In criminal proceedings, the standard of proof is proof beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that precludes every reasonable hypothesis except the hypothesis that it tends to support. Proof beyond a reasonable doubt is proof strong enough to convince reasonable

people who have examined the evidence before them that no other reasonable conclusion is possible. This burden of proof is not used in civil cases because the punishment of the offender is not a criminal punishment (incarceration), therefore, the standard of proof should not be the same as that used in criminal proceedings.

Effects of Policies and Procedures

It has been suggested that the existence of these policies and procedures have a number of positive effects for the entire university community (Schneider, 1987). By having a policy, the university shows the faculty, students and staff that the issue is taken seriously and, therefore, provides legitimacy to those who may be considering filing a complaint (Schneider, 1987). Schneider points out that the policies provide some guidelines and definitional clarity to those who may be concerned about their behaviors, including faculty members who have grown cautious and confused over what is considered acceptable behavior (i.e., friendships and mentor relationships). In addition, these policies provide the basis for educational interventions throughout the university setting.

Coupled with the positive effects of sexual harassment policies and procedures are problems that arise from these procedures. A major conflict for many universities involves balancing the confidentiality of the parties involved in the sexual harassment case with the need for the university

population to know that the problem does exist. By insisting that the university keep the case confidential, the university community develops a false sense of security that sexual harassment is not a problem. Schneider (1987) suggests that in order to balance these two issues the university should publish an annual report, in very general terms, of sexual harassment cases heard at the university and the actions taken. Robertson, Dyer and Campbell (1988) suggest that the reports should include gender and professional status of the complainants and of the alleged offenders. At this point in time, it is not clear how many universities in Canada do this. However, it would appear to be an easy and possibly effective solution to the inherent problems of confidentiality.

Hoffmann (1986) suggested that allowing the complainant to remain anonymous simply perpetuates the complainant's status as "someone for and to whom things are done rather than as an active agent" and, therefore, she does not think confidentiality is a necessary component of a sexual harassment grievance procedure (p. 119). Coming from a feminist ideology, she feels that women's subordination is perpetuated by this type of policy and that policies need to give the victim a sense of power and control over their lives and academic careers.

Importantly, studies have found that establishment of policies and procedures does not necessarily increase reports of sexual harassment (Brandenburg, 1982; Robertson et al.,

1988). While some have suggested that the low number of official complaints may indicate a lack of serious problems with sexual harassment or may reflect a legitimate decrease in the problem, others have suggested that it may be that students remain anxious about filing official complaints (Brandenburg, 1982; Schneider, 1987). In fact, the research shows that although a number of students report experience with harassment, very few make a formal complaint to any sexual harassment officer, advisor or formative body. Filing a complaint is the least utilized response by recipients of sexual harassment (Cammaert, 1985; Livingston, 1982; Valentine-French & Radtke, 1989). Most students, especially graduate students, do not formally report sexual harassment because they fear reprisals and believe the university will not take it seriously (Schneider, 1987).

Alternatively, it has been suggested that the low rate of utilization of grievance procedures is due to gender bias in sexual harassment policies, not an absence of harassment or lack of assertiveness on the part of the victims (Riger, 1991). Riger has suggested that although the policies are written in gender-neutral language, the interpretation in policies of what constitutes harassment has been based on the reasonable person rule which is more reflective of men's viewpoints than of women's. The reasonable person rule is a standard the court employs that asks whether a reasonable person would be offended by the behavior in question. The

reasonable person rule assumes that the reasonable man and the reasonable women agree in their judgments of what is offensive. However, as we have seen from the review of the literature, males and females differ in their perceptions of sexually harassing behavior. Riger suggests that the existing policies do not sufficiently cover the various interpretations and definitions of sexual harassment because they are strongly influenced by the definitions of those in power, men, and it has already been shown that men do not view as many situations as harassing as women do.

Riger (1991) also believes that the gender differences in orientation to conflict may have an important effect on whether complaints are reported. She suggests that complaint procedures that involve judging the harasser's guilt or innocence and seeking to punish the offender are likely to discourage women from bringing complaints because women are oriented toward solving the conflict (putting an end to the offending behavior) rather than seeking "justice". Whether this orientation comes from fear of reprisal or from an orientation of responsibility and caring for others (as has been suggested by Gilligan, 1982), the informal, less confrontational procedures appear to be more conducive to women filing a complaint. Therefore, formal procedures that are less adversarial (committees) may be more conducive to women using them. While Riger's position provides an interesting hypothesis, her arguments have not been tested

empirically and some would question her analysis of conflict management (Hoffman, 1986; Roiphe, 1993).

Finally, it is possible that students do not file complaints because of their lack of knowledge about sexual harassment grievance procedures (Robertson et al., 1988). Indeed, most people do not want to enter into a situation, such as a formal grievance procedure, without some knowledge of what to expect both in terms of the specific procedures as well as what it will involve for them personally. There is an extensive literature on sexual assault cases which shows that a number of issues that pertain to the individual characteristics of the victim (including her motive and her credibility) are investigated in the course of a sexual assault trial. It is widely acknowledged that the focus on behalf of the defense to discredit the testimony of the victim, keeps a number of women from reporting incidents of sexual assault. The focus on the victim rather than the act itself is based on a model that serves to blame the victim. However, there is a lack of empirical information about whether such individual characteristics, that lend focus to motive and credibility, are equally important in formal sexual harassment grievance procedures.

Information regarding what to expect in other formal proceedings (i.e., courtroom situations) has been acquired through empirical investigations. For many years, a number of studies, which have linked psychology and law, have been

undertaken. These studies, sometimes using mock juries, have investigated the effects of individual and contextual variables on different types of cases, such as cases of sexual assault and battered woman syndrome (Kasian, Spanos, Terrance & Peebles, 1993; Reskin & Visser, 1986; Schuller, 1992; Spanos, DuBreuil & Gwynn, 1992). These studies have allowed lawyers and their clients to understand what variables are used by mock jurors in the determination of their verdict.

Variables that contribute to verdicts in sexual harassment cases in university settings have not been empirically investigated. Formal complaint procedures tend to be used to hear the most serious cases reported to university officials. However, in order for complainants to use these procedures they need to be viewed as fair and effective; the role of different variables in outcome determination needs to be understood. Furthermore, since there is variability in these procedures across universities the effect of such variables on the decision processes under different procedures requires further evaluation. Indeed, there have been questions about the reliability of committee procedures. Sceptics have suggested that committee procedures, which do not involve legal counsel or cross-examination, are simply formalized versions of "kangaroo courts". There is an underlying belief that the procedure is structurally biased to find for the complainant and that such committee procedures are used by administrations that merely want to give the

appearance that the procedure is fair for both parties.

Investigations of whether verdict determination differences exist between formal grievance procedures would be valuable to academic institutions. The establishment and review of sexual harassment procedures requires that the institutions be aware of any significant differences between the procedures in place or under consideration. Such studies would also allow complainants and advisors to know what is involved in formal procedures and allow them to make a more informed decision about whether it would be in their best interest to file a formal complaint or not (Biaggio, Watts & Brownell, 1990).

Purpose of the Study

The purpose of this study was to investigate the effect of two of the most common formal grievance procedures on decisions and outcomes of a simulated sexual harassment complaint. The two procedures differed significantly in their models and procedures. One of these procedures included a three member board, or committee, which heard the case without the use of legal counsel. It has been suggested that this procedure is based on a model that serves to protect the complainant as this procedure primarily focuses on the written complaint and testimony of the complainant, and the defendant has the responsibility to defend himself against such allegations without the use of legal counsel or cross-examination. The other procedure involved a mock judge and

jury trial with legal counsel. This procedure is based on a model that serves to protect the rights of the defendant as both the complainant and the defendant are subjected to cross-examination and there is an emphasis on consideration of the evidence or lack of evidence in deliberation of the verdict.

While studies have shown that individual and contextual variables that may lend focus to complainant motive and credibility play significant roles in legal proceedings, such as those used to hear sexual assault cases, studies have failed to look at those individual and contextual variables that may be unique to sexual harassment complaints encountered in a university setting. In order to provide information about what occurs under different grievance procedures and to shed some light on whether women's fear of not being taken seriously is legitimate, contextual variables found in complaints in an academic situation were chosen.

This study investigated the effects of three variables on a complaint of sexual harassment. Two types of grievance procedures (no legal counsel/legal counsel), an individual variable and a contextual variable that may speak to complainant's motive and credibility were used. The academic standing of the complainant (average student/good student) and the time the complaint was made (immediately after the alleged events and before marks were distributed) versus significantly after the alleged events (approximately 4-5 months and after marks were given) were chosen as variables to be investigated.

The academic standing of the complainant was chosen as the individual variable as it has been suggested that this issue has been brought up in actual formal investigations of sexual harassment cases in academic settings. Indeed, it may be that committee members or jurors may view a mark (low compared to grade point average) given to a good student as evidence of something out of the ordinary, whereas, it may not be considered as a piece of evidence if an average student complained because it does not seem out of the ordinary. Both students received a grade of C, this dropped the grade point average of the A student to a B average and the grade point average of the B student to a C average.

The time of the complaint was chosen as the contextual variable because it has been found to affect decisions in cases involving sexual assault (Estrich, 1987). It appears that the concerns about the complainant's motivations for lodging the complaint increase as the time between alleged incidents and complaint increase.

Furthermore, in a university setting, one perceived motivation for bringing a complaint of harassment has been to change poor marks received in a particular course. Conversely, complainants often use a low grade as evidence that the defendant used low grades to punish the complainant for not complying with the sexual advances. Indeed, marks are very important within the context of the university and not including them in complaints of harassment would limit the

external validity of the scenarios used. For this reason, the time of complaint was varied to come before and after the assignment of a lower than average grade.

In sum, due to the fact that the judge and jury trial is based on a model that allows for a legal defense, it was hypothesized that the judge and jury procedure would result in more not guilty verdicts than the committee procedure. Moreover, to the extent that the time of complaint and academic standing of the complainant speaks to the complainant's credibility and motives, it was hypothesized that the conditions that included a delayed complaint and a complaint by an average student would result in more not guilty verdicts than an immediate complaint, or a complaint filed by a good student. Contrary to the accusations of sceptics, issues of complainant credibility are expected to play a greater role in the committee's decision-making process than in the jury's decision-making process. Because the lawyers will deal with the issue of credibility through their cross-examination, the jury has an opportunity to go beyond the issues of character credibility, to concentrate on the evidence in the case. In contrast, because the committee procedure is not provided with an 'a priori' opportunity to assess credibility, one expects that their decisions will be based more on credibility issues, such as the personalities of the individuals involved.

Method

Subjects

Subjects included 192 Carleton University undergraduate psychology students (94 males, 98 females; aged 18-43). Subjects were recruited by a sign-up sheet on the Introductory Psychology 49.100 bulletin board and through class solicitation. All subjects received course credit for their participation.

Instruments

The Attitudes Toward Women Scale (ATW) (Spence, Helmreich & Stapp, 1973) is a 25-item scale designed to measure beliefs about equality and the role of women in society. Subjects were required to indicate their agreement with each statement on a 4-point scale ranging from "agree strongly" to "disagree strongly". The ATW scale has demonstrated acceptable reliability (.90) (Terpstra & Baker, 1986b) and has been validated in previous research (Muehlenhard & Linton, 1987; Terpstra & Baker, 1986b) (see Appendix A). An index of ATW is obtained by summing responses across 25 items (Cronbach's Alpha=.87), such that high scores indicate more liberal attitudes toward women.

The Sexual Beliefs Scale (SBS) (Spanos & DuBreuil, 1991) is a 32-item scale designed to measure the extent to which women are seen as devious and as using sexuality as a means of gaining favours. The Sexual Beliefs Scale includes 3 subscales, (1) women in need of protection (4 items;

Cronbach's Alpha=.70), (2) women in traditional roles (9 items; Cronbach's Alpha=.70) and (3) women as sexual objects (17 items; Cronbach's Alpha=.91). Subjects were required to indicate their agreement with each statement on a 5-point scale ranging from "not at all true" to "very true" (see Appendix B). An index of each subscale is provided by summing responses across the items such that higher scores reflect more protective attitudes, more traditional attitudes and more sexually degrading attitudes, respectively.

The individual ballot form, designed for this study, asked the respondent to indicate whether they thought the defendant was guilty or not guilty (dichotomous scale) of sexually harassing the complainant (see Appendix C).

The Private Beliefs Scale, is a single item that assesses the private and personal belief about whether the respondent thought the defendant was guilty of sexual harassment. It asked the respondent's personal opinion concerning whether or not the defendant was guilty of sexually harassing the complainant on a 11-point continuous scale ranging from "certain defendant is not guilty" to "certain defendant is guilty". This measure has been used in numerous mock jury studies (Spanos, DuBreuil & Gwynn, 1992) (see Appendix D).

The Credibility Questionnaire, designed for this study, assessed the extent to which the respondent believed the overall testimony and individual components of the testimony of the defendant and the complainant (i.e., touching as

sexual/nonsexual; invitation to cabin; change in working relationship). The 3-item scale is used to measure the perceptions of the testimony of the complainant and the defendant. Respondents rated their belief in the testimony of the complainant and the defendant on a 7-point scale ranging from "not believable" to "very believable" at pre-and postdeliberation (see Appendix E). The three items used to measure the credibility of each factor were found to be highly correlated, therefore, this rating was averaged into one index for each, the complainant (Cronbach's Alpha=.91) and the defendant (Cronbach's Alpha=.88).

Procedure

Groups of three subjects were randomly assigned to one of eight experimental groups. Subjects completed the Attitudes Toward Women Scale and the Sexual Beliefs Scale prior to viewing one of eight videotaped sexual harassment grievance procedure scenarios. The eight scenarios varied with respect to the type of procedure (committee or jury trial), the type of student (average student or good student), and the time of complaint (immediately or delayed). After viewing the videotapes, demographic information was collected (age and gender). Subjects were asked to vote on an individual ballot form whether they thought the defendant was guilty or not guilty. A Private Beliefs Scale designed to assess each juror's or committee member's private beliefs about the defendant's guilt was completed. Subjects then

completed a Credibility Questionnaire that asked their impressions of the testimonies of the complainant and the defendant. Subjects were then asked to deliberate in mixed gender groups consisting of three members. After deliberation, subjects completed the individual ballot form, the Private Beliefs Scale, and the Credibility Questionnaire, again. In order to assess what issues discussed in the deliberation lead to the verdict, a sheet, with the instructions, "In as much detail as possible, please give the reasons why you voted the way you did" was given after deliberations (see Appendix F). A verbal and written debriefing was then given (see Appendix G).

Videotaped Scenarios. The scenarios consisted of a female graduate student (Ms. Phillips) who had filed an official complaint of sexual harassment against a male professor (Dr. Fitzpatrick). She claimed that after working as a research assistant for the professor for a period of time he invited her to his cabin for a weekend, claiming that it was time for her to start taking care of him for a change. She argued that this was simply another example of his sexually harassing behavior, which also consisted of a number of incidents including inappropriate touching and sexually charged discussions. She claimed that after she refused, the professor became very cold, distant, and undermined her competence, by complaining about her abilities and by giving her a poor mark in a course she was taking from him (a grade

lower than her average grades). At the end of the term, she quit her job as a research assistant because of the sexual harassment. The professor claimed that he had always invited students to his cabin for the weekend and no sexual intent was involved in his request. He claimed that he was a very touchy person, but that no one, including the student, had ever complained about it. In addition, he testified that the quality of her work declined near the end of the term and that it may have been due to the fact that she was given more responsibility to work on her own, which she could not handle. Therefore, both parties agreed on the sequence of events, however, the scenarios were ambiguous with respect to the interpretation of those behaviors. The scenarios varied by (1) the time the complaint was made, either soon after the cabin incident or after the end of the term and (2) the academic standing of the complainant, average (B's) or good student (A's). In graduate school, an A average is considered good, a B average is considered average. The two factors were completely crossed in a factorial design (see Appendix H for scripts).

Grievance Procedure. The committee grievance procedure consisted of an opening statement by the chair, followed by testimony and questioning of the complainant by the committee members, testimony and questioning of the defendant by the committee members and witness testimony. This procedure did not use legal counsel or cross-examination.

The jury grievance procedure included the following events: an opening statement by the judge, followed by the opening statements of the lawyers for the complainant and the defendant, examination and cross-examination of the complainant, defendant and witnesses, the closing arguments from the lawyers and the judge's charge to the jury. This procedure used legal counsel and cross-examination.

Deliberations. Before deliberations, subjects were reminded that the deliberations were going to be videotaped and that these videotapes were strictly confidential. Subjects were divided into groups of juries or committees, consisting of three members containing at least one member of each gender. Each committee/jury was asked to choose an individual to be the foreperson for the deliberations. In the committee condition, a chairperson was chosen to read aloud, to the other members, an instruction sheet concerning the university regulations about sexual harassment (these same instructions were read by the judge in the jury procedure) (see Appendix I). In addition, each committee member was asked to read a university pamphlet that described examples of sexually harassing behaviors (as is used in actual committee proceedings) (see Appendix J). The committee members or jury members were informed that their task as committee members or jury members was to reach a unanimous verdict of guilty or not guilty. They were given a maximum of 60 minutes to deliberate. If, after 60 minutes, the group did not reach a unanimous

verdict, the group was declared hung.

Results

It was expected that the effects of the contextual variable and the individual variable on the decision processes would be different under the two grievance procedures. To assess this possibility a 2 (grievance procedure; committee/jury) $\times 2$ (time of complaint; immediate/delayed) $\times 2$ (academic standing of the complainant; average/good) completely-between subjects analysis of variance (ANOVA) was conducted on the group verdicts.

To assess the differential effects of these variables on the individual verdicts, private beliefs and credibility ratings, a 2 (grievance procedure) $\times 2$ (time of complaint) $\times 2$ (academic standing of the complainant) $\times 2$ (pre/post measurement) mixed measures ANOVAs were performed. The analysis of the individual verdicts, private beliefs and credibility ratings posed a special problem in that they violated the ANOVA assumption of independence of observations. One could not conclude whether the changes in individual verdicts, private beliefs and credibility ratings could be attributed to the influence of the independent variables or the particular jury or committee group the individual belonged to (as all three measures were assessed pre and postdeliberation). In order to address this problem, the groups were nested under treatments in these analyses. Nesting controlled for the variance accounted for by the

group.

Finally, the effects of respondent characteristics, including gender and attitudes, on beliefs and perceptions were analyzed using Pearson Product-Moment Correlations.

Group Verdicts

Recall that after watching the videotaped scenarios groups were instructed to deliberate to a unanimous decision and that each group was given 60 minutes to do so. The final verdict for each group was scored (0) not guilty, (1) hung and (2) guilty. Overall, the groups found the defendant not guilty more often (64%) than guilty (33%), while only 3% of the groups remained undecided. To assess whether verdicts differed as a function of procedure, the group verdict was assessed using a 2 (procedure) x 2 (time of complaint) x 2 (academic standing of the complainant) between-subjects ANOVA. A significant two-way interaction between procedure and time of complaint was found, $F(1,56)=4.64$, $p<.05$. Follow-up simple effects analyses indicated that the simple main effect of time of complaint on jury verdicts was significant, $F(1,56)=9.30$, $p<.05$. As can be seen in Table 1, juries reached significantly more not guilty verdicts when the complaint was delayed than when the complaint was filed soon after the alleged events. In contrast, the time of complaint did not significantly influence committee verdicts. The simple main effect for groups that tried the case involving a delayed complaint was also significant, $F(1,56)=7.03$, $p<.05$. When the

Table 1

**Means for Group Verdicts as a Function of Grievance Procedure
and Time of Complaint***

Time of Complaint	Grievance Procedure			
	Committee		Jury	
	M	SD	M	SD
Immediate	.63 ^a	.89	.75 ^a	1.00
Delayed	1.13 ^a	1.02	.25 ^b	.68

* Higher scores represented a greater propensity to find the defendant guilty.

Note. Within rows and columns, means with the same superscripts fail to differ significantly at alpha .05.

complaint was delayed, committees attained significantly more guilty verdicts than did juries. When the complaint was immediate, no significant differences emerged between the verdicts of committees and juries. There were no other significant main effects or interactions.

Individual Verdicts

Recall that group members returned individual verdicts at pre and postdeliberation. A 'not guilty' verdict received a score of 1 and a 'guilty' verdict received a score of 2. Individual verdicts were analyzed using a 2 (procedure) x 2 (time of complaint) x 2 (academic standing of the complainant) x 2 (pre/postdeliberation) mixed measures ANOVA. Groups were nested under treatments in this analysis (Keppel, 1982). The 3-way interaction between time of complaint, academic standing of the complainant and pre and postdeliberation reached significance, $F(1,56)=4.53$, $p<.05$. However, follow-up analyses of the simple interactions found none to be significant. None of the simple main effects were significant. The relevant means are given in Table 2. Overall, individual subjects tended to vote not guilty. Sixty-six percent voted not guilty and thirty-four percent voted guilty.

Private Ratings of Guilt

Private ratings of guilt were also measured pre and postdeliberation using an 11-point continuous scale. These ratings were analyzed using a 2 (procedure) x 2 (time of

Table 2

Means for Individual Verdicts as a Function of Time of
Complaint, Academic Standing of the Complainant and
Deliberation*

Deliberation and Time of Complaint	Academic Standing of Complainant			
	Good		Average	
	M	SD	M	SD
Predeliberation				
Immediate	1.23	.42	1.42	.50
Delayed	1.35	.48	1.38	.49
Postdeliberation				
Immediate	1.33	.48	1.31	.47
Delayed	1.27	.45	1.44	.50

* Higher scores represented a greater propensity to find the defendant guilty.

complaint) x 2 (academic standing of the complainant) x 2 (pre/postdeliberation) mixed measures ANOVA. Once again, groups were nested under treatments. There were no significant main effects or interactions. Overall, subjects were uncertain of the defendant's guilt ($M=-0.5$, $SD=3.3$).

Perceptions of Credibility

Perceived credibility of both the complainant and the defendant were measured at pre and postdeliberation. To assess whether the characters were differentially perceived as a function of the procedures and the contextual and individual variables, these ratings were analyzed using a 2 (procedure) x 2 (time of complaint) x 2 (academic standing of complainant) x 2 (pre/postdeliberation) mixed measures ANOVAs, in which groups were nested under treatments.

Perceptions of Defendant. The analysis of the credibility of the defendant resulted in a significant 3-way interaction between procedure, time of complaint and deliberation, $F(1,56)=6.10$, $p<.05$ (see Table 3). Analyses of the simple interactions between procedure and time of complaint at predeliberation and postdeliberation indicated that the procedure x time of complaint simple interaction was significant at postdeliberation, $F(1,56)=8.68$, $p<.01$, but not at predeliberation, $F(1,56)=1.31$, ns.

Simple simple main effects performed on the interaction at postdeliberation revealed that jurors rated the defendant

Table 3

Means for Perceived Credibility of Defendant as a Function of
Grievance Procedure, Time of Complaint and Deliberation

		Time of Complaint			
		Immediate		Delayed	
Deliberation		Committee	Jury	Committee	Jury
Predeliberation					
	<u>M</u>	4.29	4.30	4.10	4.69
	<u>SD</u>	1.49	1.41	1.34	1.50
Postdeliberation					
	<u>M</u>	4.60	4.04	4.28	5.23
	<u>SD</u>	1.53	1.41	1.63	1.27

as more credible when the complaint was delayed ($M=5.23$, $SD=1.27$), than when the complaint was made soon after alleged events ($M=4.04$, $SD=1.41$), $F(1,56)=10.93$, $p<.01$. In contrast, time of complaint did not significantly influence committee members' perceptions of defendant's credibility, $F(1,56)<1$, ns. In addition, when the complaint was delayed, jurors rated the defendant as more credible ($M=5.23$, $SD=1.27$) than did the committee members ($M=4.28$, $SD=1.63$), $F(1,56)=6.95$, $p<.05$. No significant differences between procedures were found when time of complaint was immediate, $F(1,56)=2.42$, ns.

There were no other significant main effects or interactions on defendant's credibility.

Perceptions of Complainant. The analysis of the credibility rating for the complainant showed no significant effects. On average, the complainant was viewed as being moderately credible ($M=4.11$, $SD=1.44$).

Verdict Justifications

To further explore which factors played a role in the decisions of the groups, subjects were asked to give the reasons for why they voted the way they did in an open-ended written format at postdeliberation. Responses were coded for the presence (scored 1) or absence (scored 0) of twelve variables by two independent raters (see Appendix K for coding instructions). The variables were chosen to assess the salience of the dimensions incorporated in the testimonies of both parties, and by reviewing the responses provided in the

open-ended responses to ensure inclusiveness. The twelve variables included time of complaint, marks received, evidence, use of sexual harassment guidelines, touching, witnesses, personality of Dr. Fitzpatrick, Dr. Fitzpatrick's role as a professor, history of inviting students to his cabin, history of having sex with his students, personality of Ms. Phillips, and Ms. Phillips' response. The percentage of agreement between the two raters ranged from .83 to .99. Therefore, the ratings showed adequate reliability and the ratings of the principal investigator were used. The most common factors used to decide outcome included, Ms. Phillips' response, the meaning of the touching behavior, the evidence and the testimonies of the witnesses. The frequency of citation for these variables are presented in Table 4. Three of the variables (use of sexual harassment guidelines, personality of Ms. Phillips and time of complaint) were not statistically analyzed due to low frequency of citation in questionnaires (less than 20%).

The remaining nine variables were analyzed using a 2 (procedure) x 2 (time of complaint) x 2 (academic standing of the complainant) multivariate ANOVA. This analysis resulted in a significant 3-way interaction between procedure x time of complaint x academic standing of the complainant, Pillais=.12, $F(9,173)=2.74$, $p<.01$. The univariate F-tests revealed that four of the nine dependent variables were significant ($ps<.05$) including marks, evidence, the personality of Dr. Fitzpatrick

Table 4**Frequency of Citation of Variables Used To Decide Verdicts**

	Citation		
	Absent	Present	Frequency % of Response
Time of Complaint	170	19	10
Marks Received	135	54	29
Evidence	126	63	33
Sexual Harassment Guidelines	161	28	15
Touching	118	71	38
Witnesses	127	62	33
Personality of Dr. Fitzpatrick	150	39	21
Dr. Fitzpatrick's Role as a Professor	144	45	24
History of Inviting Students to His Cabin	148	41	22
History of Having Sex with Students	145	44	23
Personality of Ms. Phillips	172	17	9
Ms. Phillip's Response	103	86	46

and Dr. Fitzpatrick's role as a professor (see Table 5).

In order to assess the 3-way interaction, 2-way procedure by time of complaint simple interactions at each level of academic standing of the complainant were examined in a multivariate ANOVA on the 4 variables. The procedure $\times$ time of complaint interaction was significant in the both the good student condition, Pillais=.13, $F(5,177)=5.45$, $p<.001$, and in the average student condition, Pillais=.07, $F(5,177)=2.76$, $p<.05$.

Marks. While the 2-way procedure by time of complaint simple interaction in the good student condition was not significant, $F(1,181)<1$, ns, it was significant in the average student condition, $F(1,181)=10.14$, $p<.01$. Simple simple effects performed on the interaction revealed that when the complaint was delayed, jurors used the testimony about change in marks to aid in their decision more frequently than did the committee members, $F(1,181)=6.62$, $p<.05$. No significant differences were found when the complaint was immediate, $F(1,181)<1$, ns.

No significant simple main effects or simple interactions were found in the good student condition.

Evidence. The 2-way procedure by time of complaint simple interaction was significant in the good student condition, $F(1,181)=10.82$, $p<.05$. Simple simple effects performed on the interaction revealed that when the complaint was delayed, jurors used the evidence (or lack of evidence) to

Table 5

Means for Verdict Justification Variables as a Function of
Grievance Procedure, Time of Complaint and Academic Standing
of the Complainant

		Time of Complaint			
		Immediate		Delayed	
		Committee	Jury	Committee	Jury
Academic Standing					
Good Student					
Marks	<u>M</u>	0.29	0.24	0.29	0.29
	<u>SD</u>	0.46	0.44	0.46	0.46
Evidence	<u>M</u>	0.33	0.19	0.04	0.50
	<u>SD</u>	0.48	0.40	0.20	0.51
Personality of Dr. Fitzpatrick	<u>M</u>	0.21	0.19	0.50	0.13
	<u>SD</u>	0.42	0.40	0.51	0.34
Dr. Fitzpatrick as a Professor	<u>M</u>	0.04	0.29	0.42	0.04
	<u>SD</u>	0.20	0.46	0.50	0.20
Average Student					
Marks	<u>M</u>	0.42	0.17	0.13	0.46
	<u>SD</u>	0.50	0.38	0.34	0.51
Evidence	<u>M</u>	0.25	0.58	0.17	0.58
	<u>SD</u>	0.44	0.50	0.38	0.50
Personality of Dr. Fitzpatrick	<u>M</u>	0.21	0.13	0.08	0.21
	<u>SD</u>	0.42	0.34	0.28	0.42
Dr. Fitzpatrick as a Professor	<u>M</u>	0.17	0.33	0.29	0.33
	<u>SD</u>	0.38	0.48	0.46	0.48

aid in their decisions more frequently than did the committee members, $F(1,181)=13.03$, $p<.001$. No significant differences in procedures were found when the complaint was immediate, $F(1,181)<1$, ns.

No significant simple main effects or simple interactions were found in the average student condition.

Personality of Dr. Fitzpatrick. The 2-way procedure by time of complaint simple interaction was significant in the good student condition, $F(1,181)=4.74$, $p<.05$. Simple simple effects performed on the interaction revealed that when the complaint was delayed, committee members used the personality of the defendant to aid in their decision more frequently than the jurors did, $F(1,181)=10.83$, $p<.01$. No significant differences were found when the complaint was immediate, $F(1,181)=1.67$, ns.

No significant simple main effects or simple interactions were found in the average student condition.

Dr. Fitzpatrick as a Professor. The 2-way procedure by time of complaint simple interaction was again significant in the good student condition, $F(1,181)=12.96$, $p<.001$. Simple simple effects performed on the interaction revealed that when the complaint was delayed, committee members used the academic role of the defendant to aid in their decision more frequently than the jurors did, $F(1,181)=9.85$, $p<.01$. No significant differences were found when the complaint was immediate, $F(1,181)<1$, ns.

No significant simple main effects or simple interactions were found in the average student condition.

Summary. In short, juries and committees were as likely to consider the four variables (marks, evidence, personality of Dr. Fitzpatrick, and Dr. Fitzpatrick as a Professor) when the complainant lodged her complaint immediately after the alleged events. There were no significant differences between the groups (jury/committee) in the frequency with which they deliberated on these issues. However, significant differences between the procedures on these variables did emerge when the complainant delayed lodging her complaint. When a good student complained after a delay in time, committee members were more likely than jurors to consider the personality of the defendant and his role as a professor to make their decisions whereas, the jurors were more likely than committee members to discuss the evidence (or lack of evidence). When an average student complained after a delay in time, jurors were more likely than the committee members to consider the marks received.

Respondent Characteristics

Previous research has suggested that gender, attitudes and beliefs impact on how individuals view sexual harassment cases. To assess this, correlations between these variables are examined.

Attitudes Toward Women. A Pearson Product-Moment Correlation between the Attitudes Toward Women (ATW), the pre

and postdeliberation private beliefs and the pre and postdeliberation individual verdicts was performed to see whether individual attitudes would be related to private beliefs about guilt and verdicts (see Table 6).

When correlations were broken down by procedure, no significant differences in the pattern were found. The correlations between the ATW, the pre and postdeliberation private beliefs and the pre and postdeliberation individual verdicts were not significantly different between the two procedures. Therefore, the correlations for the entire sample were used.

There was a significant positive correlation between the ATW scores and the predeliberation private beliefs and verdict suggesting the more liberal the attitudes toward women, the more certainty was expressed that the defendant was guilty at predeliberation and the more likely the individual was to find the defendant guilty on their predeliberation verdict. ATW scores were not significantly correlated with postdeliberation private beliefs and verdict.

Sexual Beliefs Scale. The Sexual Beliefs Scale includes three subscales, (1) women in need of protection, (2) women in traditional roles and (3) women as sexual objects. Pearson Product-Moment Correlations were computed between the three subscales, the pre and postdeliberation private beliefs and the pre and postdeliberation individual verdicts (see Table 6).

Table 6

Correlations between Respondent Variables, Private Beliefs of Guilt and Individual Verdicts

	ATWT	SBSPRO	SBSTRA	SBSSEX	PREPRBEL	POPRBEL	PREBAL	FNBAL
ATWT	1.00	-.49**	-.60**	-.56**	.28**	.15	.27**	.09
SBSPRO		1.00	.58**	.49**	-.24**	-.20**	-.22**	-.15
SBSTRA			1.00	.64**	-.33**	-.16	-.30**	-.12
SPSEX				1.00	-.18	-.09	-.16	-.02
PREPRBEL					1.00	.60**	.74**	.34**
POPRBEL						1.00	.49**	.71**
PREBAL							1.00	.46**
FNBAL								1.00

** p<.01

ATWT=Attitudes Toward Women Total; SBSPRO=Sexual Beliefs Protection Subscale; SBSTRA=Sexual Beliefs Traditional Subscale; SBSSEX=Sexual Beliefs Sexual Subscale; PREPRBEL=Predeliberation Private Belief; POPRBEL=Postdeliberation Private Belief; PREBAL=Predeliberation Verdict; FNBAL=Postdeliberation Verdict (1=not guilty; 2=guilty).

Once again, when the pattern of correlations was examined separately under each grievance procedure, no significant differences were found in that the correlations between the three subscales, the pre and postdeliberation private beliefs and the pre and postdeliberation individual verdicts were not significantly different between the two procedures. Therefore, the correlations for the entire sample were used.

The Protection subscale and Traditional subscale was significantly correlated with predeliberation beliefs and verdict, suggesting the more protective and traditional the attitudes toward women, the more certainty was expressed that the defendant was not guilty and the more likely the individual was to find the defendant not guilty on their predeliberation verdict. The Protective subscale was also correlated with postdeliberation beliefs suggesting that the more protective the attitude toward women, the more certainty was expressed that the defendant was not guilty at postdeliberation. Neither the Protective nor the Traditional subscale was correlated with postdeliberation verdict.

The Sexual Object subscale was not significantly correlated with any of the private beliefs or individual verdicts.

Private Beliefs

The private beliefs were correlated with each other and with pre and postdeliberation verdicts, which themselves were intercorrelated.

Gender Effects. Gender was analyzed in a series of ANOVAs on the private beliefs, individual verdicts and perceptions of the defendant and the complainant credibility. Gender differences were only found for perceptions of credibility. Females found the complainant more credible ($M=4.36$, $SD=1.48$) than the males ($M=3.84$, $SD=1.35$), $F(1,176)=5.89$, $p<.05$ and males found the defendant more credible ($M=4.68$, $SD=1.21$) than females ($M=4.21$, $SD=1.46$), $F(1,176)=9.63$, $p<.01$. No other significant effects were found.

Discussion

Although the circumstances surrounding sexual harassment have been in existence for as long as men and women have been working and studying together, the research and literature on the issue remains in its infancy. Most of the studies to date have focused on the frequency of sexual harassment. Indeed, these studies have been catalysts in bringing the issue into the public domain. Psychology can play a significant role in advancing the research by contributing to the understanding of sexual harassment through investigations of how people define situations as sexual harassment and what variables lead to a determination of sexual harassment. This study is a starting point for research that attempts to define sexual harassment from a formal perspective, that is, in the context of formal grievance proceedings.

Psychology and law have worked side-by-side in studying issues such as sexual assault, however, it is only in the last

few years that the issue of sexual harassment has been analyzed in a legal context. While studies assessing the effect of different variables in the context of mock jury trials of sexual harassment need to be undertaken, it is even more critical that there be an assessment within the university setting. This is due to the fact that, unlike civil court cases, grievance procedures in academic institutions are not uniform. This research was an attempt to begin to provide universities with information on the differences in decision-making processes and the decision propensities of grievance procedures. This will be of use in the determination of which grievance procedures to implement or in reviews of existing procedures. Furthermore, it will be of assistance to those filing sexual harassment complainants, and their advisors, as it provides information on the variables that may contribute to decisions of sexual harassment. It will assist them in making more informed decisions regarding the use of the grievance procedure in place at their institution.

The objective of this research was to investigate the differences in decision-making processes and decision propensities between two prototypical grievance procedures (jury/committee) currently in effect at Canadian universities. The two are based on different models and contain differing procedures. It becomes important to understand how these procedures would deal with the effect of variables that may

arise in the course of a sexual harassment complaint. This study examined the effects of an individual variable (academic standing of the complainant) and a contextual variable (time of complaint) on decisions and outcomes in a simulated sexual harassment complaint. The academic standing of the complainant was selected because it has been brought up in formal investigations of sexual harassment in academic settings and is unique to that environment. Time of complaint was chosen as a variable because it has been found to affect decisions in cases of sexual assault and so was hypothesized to be a factor in decisions of sexual harassment.

In order to determine whether there were differences between the procedures, verdicts and the variables that contributed to them were assessed. This included measuring the jury and committee members' perceptions of the credibility of the complainant and defendant.

Group Verdicts and Decision-Making Processes

Due to the fact that the jury procedure is based on a model that allows for a legal defence, it was expected that, overall, this procedure would result in more not guilty verdicts than the committee procedure. While this was not found to be the case overall, the verdicts in the two procedures did differ as a function of the time of complaint. In particular, while time of complaint had a significant impact on the decisions of juries, in that they found the defendant not guilty significantly more often when the

complaint was delayed than if it was made immediately after the alleged events, delay did not appear to affect the decision-making of the committees.

Further, when the complaint was delayed, juries found the defendant not guilty significantly more often than committees.

Delays in filing complaints can be interpreted in two different ways. The delay can be seen as an index of the extent of the harm that was produced on the complainant. Research has shown that confusion, frustration and fear resulting from the harassment can lead to delays between incidents of harassment and formal reporting (Aggarwal, 1992). On the other hand, delay in reporting can be used to interpret the evidence in that the timing of filing is more attributable to factors of motivation than to the extent of harm. These opposing interpretations would generally be expected to be brought to light in an adversarial process, such as a jury procedure, because it is the role of legal counsel to present these perspectives. In contrast, in the case of the committee, which takes a non-adversarial approach and does not utilize legal counsel, the differing interpretations of the delay may not be presented for consideration by committee members.

In sexual harassment complaints, as in all legal cases, the burden of proof lies with the complainant. They must establish that the defendant committed the alleged harassment against them (Aggarwal, 1992). In this simulated case, the

complainant was responsible for establishing that the preponderance of evidence or balance of probabilities was in her favour and that the defendant acted in a manner that violated the university's sexual harassment policy. According to Aggarwal (1992),

even if there may be an initial belief in the complainant's evidence and the burden of proof shifts to the respondent, this initial belief may be rebutted either on cross-examination and/or by the production of evidence by the respondent that what the complainant alleges as being discriminatory was a result of actions on the respondent's part which were legitimate and had a non-discriminatory base (p.133).

This 'burden of proof on the complainant' may also play a role in explaining the differences found in the jury and committee verdicts. Sexual harassment is a very complex issue, one which research has shown is difficult to define. As mentioned previously, due to uncertainty and confusion, many women do not report incidents of sexual harassment for fear of being ridiculed or retaliated against (Robertson et al., 1988; Schneider, 1987). This can lead to a time delay between alleged incidents and formal reporting of a complaint. Indeed, the reasoning for the delay used by the complainant in this simulated case was confusion, frustration and fear of retaliation. Given that the complainant attempted to establish the validity of her complaint through her testimony, the burden of proof then switched to the defendant. At this point in the jury procedure, the lawyer for the defense used cross-examination of the complainant to lead jurors to question her motivation. The jurors were given the

opportunity to see possible doubts in the mind of the complainant (complainant testified she didn't complain because she was confused, upset and fearful), which, in turn, raised doubts about her credibility and was used to demonstrate the unreliability of her testimony. As a result of these doubts, the jurors were more likely to vote not guilty. The defendant, through legal counsel, may have successfully used cross-examination to rebut the initial belief in the complainant's evidence.

In the committee procedure, cross-examination is not used and the defendant could not rebut this initial belief. Therefore, the only option the defendant had was to produce evidence that would legitimize his actions. In sexual harassment cases, there are serious problems of proof or direct evidence. In many cases, it comes down to one person's word against another. Evidentiary difficulties are a major source of concern in cases such as these. In this case, the defendant's evidence was limited to telling his side of the story. The committee may have taken the delay as an index of the extent of the harm that was produced on the complainant. This would have left the burden of proof on the defendant, which he, himself, could not appear to lift.

Thus, while juries seem to be affected by the contextual variable of time of complaint, committees were not. It would appear that the jury members may have used time of complaint to aid in their interpretation of the evidence, which was not

the case for committee members.

This explanation would be consistent with the finding that jurors rated the defendant as more credible when the complaint was delayed than when the complaint was immediate while delay did not affect the committees' perceptions of the defendant's credibility. In addition, jurors rated the defendant as more credible than committee members at postdeliberation. Jurors perceived the defendant as more credible when the complaint was delayed due to their interpretation that the delay called the complainant's motives into question.

As Aggarwal (1992) has pointed out, the credibility of the witnesses is crucial in sexual harassment cases because often there is a lack of corroborating evidence simply because most sexual encounters do not occur in public view. Aggarwal (1992) found that most of the sexual harassment cases in Canada were won or lost on the basis of the credibility of the complainant or the defendant, rather than on any other grounds. Unexpectedly, no effects were found with respect to the perceptions of the complainant's credibility. It may be that as the committee and jury are trying to decide on the innocence or guilt of the defendant, they look to the defendant's credibility rather than to the complainant's in interpreting the evidence.

It is somewhat curious that no differences in perceptions were found at predeliberation. Clearly the independent

variables (procedure, timing of complaint, academic standing of the complainant) had their effect postdeliberation, which suggests that the deliberations brought out these independent variables and strengthened their effects. Therefore, it is important to discuss the variables the jurors and committee members viewed as important in their deliberations.

An analysis of the variables that were reported to contribute to the verdict determinations revealed that juries and committees concentrated on those variables that focused on the defendant's case. Both evidentiary and personal variables were used to justify the verdicts. This study found that when a good student complained after a significant period of time, committee members looked to the defendant's personal characteristics to decide whether sexual harassment occurred to a greater extent than jurors did. They focused on the personality of the defendant as a touchy-feely type of person and judged this to be inappropriate. In addition, under these conditions, the committee members also made some judgments concerning the defendant's role as a professor. Comments from the questionnaires indicated that these committee members did not think that the defendant acted in a professional manner by socializing with his students in such a casual manner. It is suggested that these two variables led to the negative judgments of the defendant's credibility. These findings are not surprising, as it was expected that committees would focus more on issues that speak to the credibility of the witnesses

than on evidence or contextual variables. However, what was surprising was how verdict justifications were affected by the academic standing of the complainant. It was expected that where the complainant's grade point average speaks to her credibility and motives, a delayed complaint by an average student would be viewed as most questionable, thereby resulting in more not guilty verdicts than if a good student complained. However, it appears that the differential focus on credibility was more evident when the student was good, in that committees seemed to believe that the personal issues of the defendant were most relevant when a good student files the delayed complaint. This may be due to the fact that with a good student they had difficulty finding faults in her character and, therefore, looked elsewhere for faults. In this simulated sexual harassment study, it appears that the committee members may have recognized the lack of direct evidence in this case and, therefore, focused on issues that contributed to the credibility of the witnesses; when the witness was a good student they focused on the character of the defendant.

In contrast to the committee members, however, it appears that the jurors focused on the issue of evidence and the role that the complainant's marks may have played. This study found that when a good student complained after a significant time delay, the jurors focused on a lack of evidence when deciding to vote not guilty. Again, contrary to expectation,

the academic standing of the good student, resulted in greater discrepancies as a function of procedures than did academic standing of the average student. However, in contrast to the committees that were more likely to focus on defendant characteristics when they could not find any faults with the character of the good student, the juries focused on other potential sources of evidence.

In contrast, when an average student complained after a significant time delay, the jurors focused on the complainant's marks as evidence. The complainant argued that her marks changed because she would not acquiesce to the defendant's demands. However, this testimony was rebutted by the defense's argument which placed the responsibility for marks on the complainant, rather than the defendant. Legal counsel for the defense pointed to the complainant's own inability to handle the pressure of graduate school as the reason for the poor grades. This finding was as expected. For committee members, marks may not have played a role because in their deliberations they focused on the defendant's characteristics. Finally, it may be that only the poor grades of the average student were considered because the mark the good student received may not have been viewed as particularly poor (she received a B). The mark may have only played a role when the average student received a poor grade (she received a C).

The finding that in a simulated sexual harassment case committee members focused on personal issues to make their decisions, while jurors focused on contextual issues points to a major difference between these procedures when used to adjudicate sexual harassment cases. It appears that jurors may be focusing on the evidence and contextual characteristics to interpret the evidence to a greater degree than committee members because the lawyers have questioned the credibility of the witnesses and, therefore, jurors do not have to focus on the credibility issue and can concentrate on the evidence. Rather than questioning credibility, they use it as a framework for dealing with the evidence. In the meantime, the committee members focus on credibility because they have not had the benefit of the lawyers doing this for them as part of the committee hearing.

One very unusual finding was that although time of complaint was found to have an effect on group verdicts and on verdict justifications, it was not frequently discussed within either the jury or committee deliberations (as evidenced by the low frequency on the open-ended questionnaires). It may be that the time of complaint was not discussed in the deliberations as it was used as a between-groups variable and, therefore, they were not cognizant of it. Rather the groups may have used the time of complaint as an implicit issue to frame the interpretation of the evidence, in that the existence of delay may have cast the issues of credibility and

evidence into a different light, as opposed to being an issue of explicit concern.

It is also notable that across both procedures the response of the complainant was frequently mentioned as a variable that played a role in the decision-making processes. A number of jurors and committee members expressed their concern over the complainant's lack of response. Many of them indicated that she should have said something to the defendant. Since this was the most frequently mentioned variable (46%), it may have played a significant role in the groups voting not guilty. Indeed, this may be, in part, why time of complaint made a difference - it may have indirectly resulted in greater weight being placed on perceptions of the response of the complainant. This finding is consistent with other research that has shown that the aggressiveness and negativity of the complainant's response has an effect on judge's decisions in sexual harassment cases (York, 1992). Aggarwal (1992) has pointed out that the axiom 'actions speak louder than words' may be sufficient in sexual harassment cases, that is, even if the complainant did not say anything, it may still be considered sexual harassment if her actions sent a message instead. However, what the law requires and what jurors and judges require may be two different things.

It appears that the deliberation process affects the decision-making processes by highlighting the situational factors and reducing the influence of individual differences

among jurors and committee members. This is evidenced by the fact that, while the attitudinal variables correlated with predeliberation private beliefs and verdicts, they did not correlate with postdeliberation private beliefs and verdicts. Similarly, gender effects were not found for individual verdicts or private beliefs of guilt. Low correlations between attitudes and verdicts have been observed in other mock jury research as well (Kasian et al., 1993; Spanos et al., 1992). As Spanos et al. (1992) have suggested, the lack of correlation between individual variables and final verdicts may be attributable to the fact that unlike predeliberation verdicts or private beliefs, postdeliberation verdicts may have been more strongly influenced by situation specific variables, such as the pressure to reach a unanimous verdict.

Individual Verdicts

The pattern of the findings obtained at the level of individual verdicts differed from the pattern obtained with the group verdicts previously discussed. In fact, an interactive effect of procedure, time of complaint and academic standing was found on postdeliberation verdicts. However, further analyses resulted in no significant simple effects. The pattern of effects found with the individual verdict were similar to those found with the group verdict, but, this was qualified with an interaction with academic standing of the complainant. The lack of consistency between individual verdicts and group verdicts has been found in other

research as well (Kasian et al., 1993; Spanos et al., 1992). The lack of effects for individual verdicts may be due to a statistical artifact. Nesting reduced the additional power that would be expected with such a large sample size by analyzing the mean of the group, yet there is still a great deal of variability among the three individuals in the group. When there is a great deal of variability, the chances of reaching significance are lessened.

Summary

One of the main tensions involved in drafting grievance procedures for sexual harassment complaints is the ability to balance the protection of the complainant with the need to ensure due process for the defendant (Helly, 1990). It appears that each of the two procedures studied do, in fact, differentially focus on one or the other. In avoiding confrontation by not utilizing cross-examination, the committee procedure appears to protect the complainant by leaving her credibility and motives intact and by focusing on the personal characteristics of the defendant in their deliberations. In contrast, the jury procedure appears to ensure due process for the defendant through examination and cross-examination of both the complainant and defendant, thereby providing alternative explanations for both parties' behavior and allowing jurors to focus on the evidence in their deliberation. Consistent with this, in establishing a sexual harassment panel at Hunter College, which is extremely similar

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to the committee procedure used in this study, Helly (1990) found that the intent of the panel was "to resolve the complaint by correcting or remedying the injury, if any, to the complainant and to prevent further harassment" (p.240). Therefore, it appears that there tends to be greater support for the complainant than for the defendant with the committee procedure, while the judge and jury procedure tends to be more concerned with the issue of due process for the defendant.

In adopting these guidelines and procedures, Helly (1990) points out the importance of deciding where the priority of the grievance procedure should lay: "upon the rectification of wrongs or upon the penalties and sanctions to be invoked against wrongdoers" (p.242). Indeed, clearly the priority of the grievance procedure must be decided upon before any procedure be devised and implemented.

Directions For Future Research

The fact that there is no single grievance procedure common to university settings increases the importance of assessing the effect of different variables on these procedures and, in turn, on decisions of sexual harassment.

The simulated sexual harassment scenario used in this research was based on lengthy discussions with sexual harassment advisors in order to ensure that it was a true representation of events typically seen in a sexual harassment complaint. While the scenario was consistent from the committee hearing to the judge and jury hearing, procedural

variations (order of presentation of evidence, opening and closing statements and use of cross-examination) did exist. Therefore, in an attempt to maximize the external validity of these research findings, the internal validity was compromised. While it was found that the two procedures had a differential effect on decision-making, the particular components of these procedures that led to these differences is unclear. Future research should attempt to investigate the role of procedural components (i.e., the use of cross-examination, the inclusion of the opening and closing statements by the lawyers, and the order of evidence) to see which of these components affects verdicts.

One issue that may affect the generalizability of the present research is the fact that a student sample was used. This study used students as they would be aware of university norms and the university context but most committees/juries would normally be comprised of faculty members, staff and senior students. However, while individual differences affected predeliberation beliefs and verdicts, they did not affect postdeliberation beliefs and verdicts, therefore, these results are likely to be generalizable to a university setting. The generalizability of these findings regarding the role of contextual and complainant factors in the various grievance procedures should also be examined in relation to other operationalizations of these constructs. Moreover, the moderating effects of variables, such as defendant

characteristics should be considered further, given the focus on these characteristics in the present study.

More specifically, the gender of the complainant and the defendant is one of the variables that could be altered. Past research has shown that gender of initiator and recipient plays a significant role in perceptions of sexual harassment (Gutek, 1985). If the gender of each was reversed, different decisions may result as a function of procedure. In particular, given the current findings, this change should result in a greater number of not guilty verdicts in the committee procedure. On the other hand, no change would be expected in the jury procedure. These hypotheses are due to the fact that in the current study, with the ambiguity of the situation and lack of direct evidence, it was found that the committee procedure focused on the credibility of the defendant, whereas the jury procedure focused on evidence and used contextual variables to interpret the evidence. It is expected that a female defendant may be perceived as more credible than a male defendant in this scenario. This is due to the perception in society that a 'touchy-feely' personality is often more acceptable when exhibited by a female than by a male. As a result, there would be reduced defendant motive and credibility concerns on the part of the committees and an increased number of not guilty verdicts.

Another variable that should be further investigated is the response of the complainant. In the scenario used in this

study, the complainant's response was relatively mild and indirect. Indeed, her response was the most frequently cited factor in the verdict decision-making process. Based on past research (York, 1992), it would be hypothesized that a more assertive response by the complainant may result in more guilty verdicts across both procedures. In the case of juries, this would provide additional evidence regarding the extent of harm to the complainant by demonstrating that the behaviour was not welcome. The more assertive response would also reduce the ambiguity of the situation for the committees and may allow them to increase their focus on the evidence.

The history of the defendant's relationship with students was another one of the more common factors that was discussed in the deliberations. In this study, the defendant had a history of relationships with students. However, had the history of the relationships been varied (no past history of relationships/history of past relationships), the results may have been different. It is hypothesized that if the history of past relationships is changed, there may be an increased number of not guilty verdicts under the committee procedure as this factor would not have a negative effect on the credibility of the defendant. It may also have an effect under the jury procedure, in that, similar to the issue of delay, it would have changed the context under which the evidence was interpreted.

One issue that was not considered in the present study was the potential effect of having the committee/jury recommend sanctions. While they were aware that the offender may be given a letter of reprimand or a dismissal from his position, they were not given a say in this. This opportunity does actually occur in some grievance procedures. Kasian (1991) has suggested that when jurors are given a choice of sanction options, verdicts may, in fact, change. For example, if a sanction of reprimand could have been recommended rather than a dismissal this may have increased the guilty verdicts and perhaps eliminated procedural differences (i.e., recommending sanctions provides opportunity to consider the fairest response against defendant in less absolute terms). In this study, jurors may have felt that while sexual harassment may have occurred, the option of dismissal was too harsh, and, therefore, voted the defendant not guilty. Future studies would be enhanced by allowing the jurors or committee members the opportunity to choose between potential sanctions. Indeed, policies also need to specify the range of disciplinary measures (Biaggio, Watts & Brownell, 1990). This shows that university administrations take the issue seriously and reinforces the fact that sexual harassment will not be tolerated.

The research on group decision-making and procedural justice may provide a theoretical framework for the study of the adversarial and nonadversarial procedures used to hear

sexual harassment complaints in an academic setting. The research in this area suggests that potential complainants, advisors and administrations are not only interested in the differential outcomes produced by different procedures but also on the perceived fairness of the procedures as well (Lind, 1982). This study did not measure perceived fairness of jurors or committee members but future research may want to address such an issue.

The research possibilities for the study of sexual harassment are numerous. It is time to move beyond frequency counts toward a more comprehensive understanding of the variables that contribute to perceptions of sexual harassment.

Finally, it must be recognized that in spite of any changes to grievance procedures that might be identified by this research, a significant constraint to change exists. In most university settings, employees are protected under collective agreements. These can have a major effect on the flexibility of the university to introduce or amend grievance procedures of any kind, including those related to sexual harassment. In some cases, the policies and procedures in place to hear sexual harassment complaints, may have actually been modified by the terms of the existing university employment policies and collective agreements (Helly, 1990; Medlicott, 1993). Indeed, at some educational institutions, sexual harassment procedures conflict with faculty and staff union agreements. The potential for conflict between grievance

procedures and collective agreements is a factor that needs to be taken into account by future researchers when selecting grievance procedures for evaluation.

Summary and Conclusion

This research has investigated what occurs when formal complaints of sexual harassment are heard in university settings by studying the effects of different grievance procedures on decisions in a simulated sexual harassment complaint. It also looked at some of the variables that may contribute to the decisions in a sexual harassment hearing.

In summary, these analyses, taken together, suggest that type of grievance procedure and time of complaint have different effects on committee and jury verdicts. The adversarial nature of a judge and jury trial (which is based on a civil court model) uses legal counsel and cross-examination in an attempt to ensure due process for the defendant. Results from this study suggest that jurors who hear sexual harassment cases attempt to focus on the evidentiary and contextual variables when deliberating on a verdict. Another procedure used by universities to hear sexual harassment complaints is a committee or panel procedure. This procedure does not use legal counsel but attempts to focus on the protection of the complainant. Results from this study show that committee members who hear sexual harassment cases attend to individual variables, such as the personalities involved, when deliberating on a verdict.

These findings have serious implications for academic institutions as well as those directly involved in sexual harassment complaints. As Helly (1990) has pointed out, those who develop and implement the procedures must decide where their priority lies. In order to do this, they must make an informed decision based on research that addresses these types of issues.

Research has confirmed that sexual harassment occurs in institutions of higher learning experience (Schneider, 1987). In an attempt to prevent and remedy this problem, universities have implemented policies and procedures that address the issue of sexual harassment. Yet, even with this move on the part of the university administrations to "deal" with the issue, there has not been a significant increase in reports of sexual harassment (Robertson et al., 1988). The research shows that, although a number of students report the occurrence of sexual harassment, very few make a formal complaint (Valentine-French & Radtke, 1989). Not only are students frightened by the repercussions and possible backlash, it has also been reported that they genuinely have a lack of awareness regarding the availability of formal actions and a lack of knowledge in regard to the effectiveness of the actions (Betts 1984). These findings have provided some insight into factors that may be implicated in the effectiveness of lodging a formal complaint. The possibility of providing complainants and defendants with some knowledge

of the complaint process and possible mitigating variables that may have an effect on decisions and final verdicts is feasible. Replacement of myth with knowledge is the only means by which those who feel that they have been harassed can make an informed decision about whether or not to proceed with a sexual harassment complaint.

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Appendix A

QUESTIONNAIRE

(ATWS)

The statements listed below describe attitudes toward the role of women in society that different people have. There are no right or wrong answers, only opinions. You are asked to express your feeling about each statement by indicating whether you (A) agree strongly, (B) agree mildly, (C) disagree mildly, or (D) disagree strongly. Please indicate your opinion by circling either A, B, C, or D on the answer sheet for each item.

	Agree Strongly	Agree Mildly	Disagree Mildly	Disagree Strongly
1. Swearing and obscenity are more repulsive in the speech of a woman than of a man....	A	B	C	D
2. Women should take increasing responsibility for leadership in solving the intellectual and social problems of the day....	A	B	C	D
3. Both husband and wife should be allowed the same grounds for divorce....	A	B	C	D
4. Telling dirty jokes should be mostly a masculine prerogative....	A	B	C	D
5. Intoxication among women is worse than intoxication among men....	A	B	C	D
6. Under modern economic conditions with women being active outside the home, men should share in household tasks such as washing dishes and doing the laundry....	A	B	C	D
7. It is insulting for women to have the "obey" clause remain in the marriage service....	A	B	C	D
8. There should be a strict merit system in job appointment and promotion without regard to sex....	A	B	C	D
9. A woman should be as free as a man to propose marriage....	A	B	C	D

	Agree Strongly	Agree Mildly	Disagree Mildly	Disagree Strongly
10. Women should worry less about their rights and more about becoming good wives and mothers....	A	B	C	D
11. Women earning as much as their dates should bear mutually the expense when they go out together....	A	B	C	D
12. Women should assume their rightful place in business and all the professions along with men....	A	B	C	D
13. A woman should not expect to go to exactly the same places or to have quite the same freedom of action as a man....	A	B	C	D
14. Sons in a family should be given more encouragement to go to college than daughters....	A	B	C	D
15. It is ridiculous for a woman to run a locomotive and for a man to darn socks....	A	B	C	D
16. In general, the father should have greater authority than the mother in the bringing up of children....	A	B	C	D
17. Women should be encouraged not to become sexually intimate with anyone before marriage, even their fiancés....	A	B	C	D
18. The husband should not be favoured by law over the wife in the disposal of family property or income....	A	B	C	D
19. Women should be concerned with their duties of childbearing and house tending, rather than with desires for professional and business careers....	A	B	C	D

	Agree Strongly	Agree Mildly	Disagree Mildly	Disagree Strongly
20. The intellectual leadership of a community should be largely in the hands of men....	A	B	C	D
21. Economic and social freedom is worth far more to women than acceptance of the ideal of femininity which has been set up by men....	A	B	C	D
22. On the average, women should be regarded as less capable of contributing to economic production than are men....	A	B	C	D
23. There are many jobs in which men should be given preference over women in being hired or promoted....	A	B	C	D
24. Women should be given equal opportunity with men for apprenticeship in the various trades....	A	B	C	D
25. The modern girl is entitled to the same freedom from regulation and control that is given to the modern boy....	A	B	C	D

Appendix B

RSBATW

For each item below please circle the one number between 1 and 5 that best describes how you feel. The number 1 means that you think the item is 'Not at all true' while 5 means you think the item is 'Very true'. Numbers between 1 and 5 reflect differences in belief between the two extremes.

	Not at all true				Very true
1. In general, women are less trustworthy than men.	1	2	3	4	5
2. Women are more willing than men to be sneaky or underhanded in order to get what they want.	1	2	3	4	5
3. Lots of attractive women flirt and use their looks in order to get ahead.	1	2	3	4	5
4. A lot of women would probably be willing to sleep with their boss in order to get a promotion.	1	2	3	4	5
5. The old saying "hell hath no fury like a woman scorned" contains an important psychological truth.	1	2	3	4	5
6. Even though they may appear sweet on the surface women are often more spiteful and vengeful than men.	1	2	3	4	5
7. Women often use tears as a tool to make men feel sympathetic towards them, and give them what they want.	1	2	3	4	5

	Not at all true					Very true
8. In a job or professional situation women often have an advantage over equally competent men, because women can use flirting and sex as well as competence to get ahead, while the men have only competence.	1	2	3	4	5	
9. If they could get away with it, a lot of women college students who were doing badly in a course would have sex with the professor in order to get a better grade.	1	2	3	4	5	
10. If they thought it would work for them, a lot of women would lie about using birth control in order to get pregnant and pressure their boyfriend into marrying them.	1	2	3	4	5	
11. Ideally, a woman should be a virgin when she marries.	1	2	3	4	5	
12. Ideally, a woman should be less sexually experienced than the man she marries.	1	2	3	4	5	
13. It is more important for women to be sexually faithful in a relationship than it is for men.	1	2	3	4	5	
14. When it comes to a choice between career advancement and the needs of the children, wives should be more willing than husbands to make career sacrifices.	1	2	3	4	5	
15. Women who cheat on their husbands or boyfriends are likely to claim that they were raped if they think it will get them off the hook.	1	2	3	4	5	

	Not at all true				Very true
16. Because women are physically weaker than men, its important that they have a man around who can protect them.	1	2	3	4	5
17. Most women enjoy traditional displays of politeness like having doors opened for them, and pulling out their chair when they sit down.	1	2	3	4	5
18. Basically, its no big deal if a man has casual sex with someone other than his wife, as long as he does his best to protect his wife's feelings by not letting her find out.	1	2	3	4	5
19. A lot of so called "date rape" involves women who consented to sex but later cried rape to protect their reputations.	1	2	3	4	5
20. Casual sex before marriage is more acceptable for men than for women.	1	2	3	4	5
21. I can see how a woman might have sex before marriage with a guy she really cares about, but a woman who has sex with guys she doesn't know well because she finds them physically attractive, is a slut.	1	2	3	4	5
22. Sometimes women play the role of a sweet, naive, innocent just to hook men into giving them what they want.	1	2	3	4	5
23. Women often play hard to get sexually in order to protect their reputation, even when they secretly feel sexually aroused.	1	2	3	4	5

	Not at all true				Very true
24. Frequently women want sex but won't admit it because they don't want the guy to think that they are cheap or easy.	1	2	3	4	5
25. A lot of women are willing to hide their true beliefs and play whatever role they think will work in order to catch an attractive guy with money and a good job.	1	2	3	4	5
26. It is a man's duty to protect and defend the honor of the woman he cares about.	1	2	3	4	5
27. The worst thing a woman can do to a man is cheat on him sexually.	1	2	3	4	5
28. A lot of women flirt with other men in order to let their boyfriend know that he had better give them whatever they want or they will leave him.	1	2	3	4	5
29. The worst thing a man can do is to not defend the reputation of the woman he loves.	1	2	3	4	5
30. Although men and women may be equal in many ways, women feel safe and secure knowing they have a man around who can look after them and protect them.	1	2	3	4	5
31. Probably a lot of so called rape involves women who are trying to get back at a guy who they voluntarily had sex with but who then didn't want to see them again.	1	2	3	4	5
32. A good woman is like a rare gem. A man who is lucky enough to find one should treasure and protect her.	1	2	3	4	5

Appendix C

INDIVIDUAL BALLOT FORM

Number: _____

My vote is that the defendant, Dr. Fitzpatrick, is:

GUILTY _____

NOT GUILTY _____

of sexually harassing Miss Phillips.

Please choose only one option.

Appendix D

PRIVATE BELIEF

The scale below assesses your private and personal belief about whether you think that Dr. Fitzpatrick is guilty of sexual harassment. This scale is not asking you whether you believe that the evidence is sufficient to find Dr. Fitzpatrick guilty in these proceedings. Instead, it is simply asking you for your personal opinion concerning whether or not Dr. Fitzpatrick is guilty of sexually harassing Miss Phillips.

-5	-4	-3	-2	-1	0	+1	+2	+3	+4	+5
Certain Dr. Fitzpatrick is Not Guilty					Unsure	Certain Dr. Fitzpatrick is Guilty				

Appendix E

Credibility Questionnaire

This question concerns the extent to which you believed the testimony of Miss Phillips. Please rate the extent to which you believed the testimony of Miss Phillips on the scale below. Please circle only one number.

Miss Phillips' testimony was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

The following questions concern the extent to which you believed the specific testimony of Miss Phillips. Please rate the extent to which you believe the testimony of Miss Phillips on the scale below. Please circle only one number.

- (1) Miss Phillips' testimony that Dr. Fitzpatrick touched her in a sexual way was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

- (2) Miss Phillips' testimony that Dr. Fitzpatrick's invitation to his cabin involved sexual comments and sexual intentions was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

- (3) Miss Phillips' testimony that their working relationship changed because she declined his sexual advances was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

This question concerns the extent to which you believed the testimony of Dr. Fitzpatrick. Please rate the extent to which you believed the testimony of Dr. Fitzpatrick on the scale below. Please circle only one number.

Dr. Fitzpatrick's testimony was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

The following questions concern the extent to which you believed the specific testimony of Dr. Fitzpatrick. Please rate the extent to which you believe the testimony of Dr. Fitzpatrick on the scale below. Please circle only one number.

- (1) Dr. Fitzpatrick's testimony that he did touch Miss Phillips but in a nonsexual way was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

- (2) Dr. Fitzpatrick's testimony that the invitation to his cabin did not involve sexual comments and sexual intentions was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

- (3) Dr. Fitzpatrick's testimony that their working relationship changed because the demands of the job and not because she declined his sexual advances was:

1	2	3	4	5	6	7
Not Believable		Somewhat Believable			Very Believable	

Appendix F

Verdict Justification Questionnaire

In as much detail as possible, please give the reasons why you voted the way you did.

[illegible]

Appendix G

DEBRIEFING

Recognizing the significance of sexual harassment, universities have established grievance procedures for formal complaints of sexual harassment made by students, faculty and staff. However, the university grievance procedures, based on administrative law, are neither uniform nor consistent but vary from university to university. This study compared decision processes and outcomes obtained when a sexual harassment case was investigated by two different grievance procedures. One of these procedures included a 3 member committee, which is based on a model that serves to protect the rights of the complainant. The other procedure included a judge and jury trial, which is based on a model that serves to protect the rights of the defendant.

This study investigated the effects of three variables on a complaint of sexual harassment. The three variables included type of grievance procedure (committee or jury), the timing of the complaint (immediately after the alleged event or significantly after) and the academic standing of the complainant (average student/good student). It is hypothesized that the type of grievance procedure employed will influence the decisions concerning sexual harassment. While many factors have been shown to influence judges' decisions in sexual harassment cases, such as type of coercion, victim's reaction, and job consequences, none have looked at those issues which may be unique to cases encountered in a university setting.

Sexual harassment violates fundamental rights, individual dignity and personal integrity and is not tolerated at Carleton University. For further information on Carleton University's Sexual Harassment Policy, please call Nancy Adamson (Status of Women Coordinator) at 788-5622.

I would like to thank you for participating in this study. Your participation will help us understand more about the effects of different grievance procedures on decisions of sexual harassment. If you have any questions or ethical concerns regarding this experiment, please contact any or all of the following people at 788-2600:

Caroline Burnley (Researcher) ext. 2683.
Dr. Nicholas Spanos (Faculty Supervisor) ext. 2682.
Dr. Lise Paquet (Chair of the Ethics Committee) ext. 2692.
Dr. Bill Jones (Chair of the Psychology Dept.) ext. 2648.

Appendix H

Script:

Grievance Procedure: Formal Complaint/Committee

Chair: Good afternoon Miss Phillips. As you know this proceeding is an investigation of your formal complaint against Dr. Fitzpatrick in which you are accusing him of sexual harassment. I want to emphasize this is not a trial. This is an investigation. As such you will be asked questions by this committee which you are required to answer. Although you may have someone present with you, including a lawyer, you are required to represent yourself. At the end of this proceeding, we will meet with Dr. Fitzpatrick and go through his testimony and the testimony of the witnesses. We will then make a recommendation to the president which can result in one of three options: a dismissal of the complaint, a letter of reprimand to be put on Dr. Fitzpatrick's permanent file or the dismissal of Dr. Fitzpatrick from his duties and responsibilities as a professor at this university. Have you understood everything thus far?

Student: Yes sir.

Chair: Do you have any questions before we begin?

Student: No sir.

Chair: All right then. Let us begin by having you tell us the nature of your complaint.

Student: Well...it started back in September of this academic year when I went to Dr. Fitzpatrick's office during his office hours. Dr. Fitzpatrick is my stats professor. I was confused by something he explained in the last class and I wanted to clear it up before the midterm. I had never been to his office before and I ended up getting lost so by the time I got there his office hours were over. Needless to say I was a little anxious and out of breath when I walked into his office. He told me to close the door and sit down. I talked to him about my question and he brought his chair closer to mine because he wanted to see how I had worked out my answer. He showed me where I went wrong and told me to work it out there to make sure I understood him. He got up and got a coffee. As I was working on it, I felt kind of uncomfortable because he just stood there and stared at me, without

saying anything. However, I was so wrapped up in my problem I just wanted to get it right so I just put my head down and figured it out.

When I finished he came over to check it and it was right. He congratulated me by patting me on the knee. I'm not a touchy feely type of person so I felt a little uncomfortable, but then I thought maybe I was overreacting. Then we talked a bit about the class, the university, you know, the city. I'm new here so he was telling me about the local spots. He then mentioned that after the tutorial on Wednesday nights a few people and he usually go to the pub for a drink and suggested I think about coming along. I told him I didn't know how people find the time to socialize around here. I felt so overwhelmed by everything. It is so different from being an undergraduate and being away from home didn't help either. He then asked me why I had come to university. I thought it was an unusual question. Then he asked if I came here to find a husband. I was kind of shocked that man had such traditional attitudes. I replied something to the effect of no I'm independent enough, I can support myself. To which he replied, I shouldn't discount the support of a boyfriend or husband, especially in graduate school, the pressure and competition can be quite rough. At this point, I didn't know where the conversation was going so I got up and told him I had to go. He got up and walked me to the door and as I was opening the door he said I could call him anytime if I had any questions about anything or if I just wanted to talk. And then he patted me on the back on the way out. I walked out of his office and felt kind of weird about our meeting. I mean I had never had any kind of a personal conversation with a professor before.

At the following tutorial, he approached me and Sandra Taylor after class and asked if we were going to the pub. I wasn't sure but Sandra wanted to go so I decided to tag along. When I got there, Dr. Fitzpatrick motioned for me to come and sit beside him. As I approached him he said he saved a seat especially for me and patted me on the knee when I sat down. He said that he was glad that I came and that this would be a chance for me to relax a little. We ended up talking about my undergraduate days and he couldn't get over my research experience. You see I have been a research assistant since I was in 2nd year. He asked me if I would be interested in doing some research for him. Of course, I jumped at the chance. I really needed the money and the experience would be great especially at a new university and all. He then proceeded to introduce me to the gang as his ... "new partner" and he hesitated before he said ... "in research".

Everything was going fine. He was really nice. We would talk about his days as a student, his love of the outdoors, his family. I felt like I was really getting to know him. But at the same time, I felt a little uncomfortable. He revealed some pretty intimate details of his days as a student, the whole activist thing, the sit-ins, the love-ins and he liked to talk about how much sex was a part of the whole experience. He would talk about how thank God no one had to worry about AIDS back then, how at the Frat parties the theme was free love, free sex and multiple partners. I basically just listened and didn't say anything. I also felt somewhat uncomfortable because he was very touchy, he would take any opportunity to rub my shoulders (and tell me I probably needed a nice back rub, sitting in front of the computer all day) and touch me, you know, my arm, my knee. I didn't really say anything because I thought that maybe I was reading too much into it even though it left me with this very uncomfortable feeling.

One day on my way to class I stopped in to the lab to pick up some printouts I had been waiting for and he called me into the office. He asked me to close the door. He proceeded to tell me that I was doing a fantastic job, that I really stood out from a lot of the other first year graduate students and that he had decided that he was going to put me down as an author on this research project. I was thrilled. I mean sometimes you wonder about your abilities and when you get such high praise you feel really good. He came over and hugged me. It seemed to be a long hug and I could feel his breath on my neck. It was highly uncomfortable. I pulled back and he stared right into my eyes and told me what a terrific partner I was going to make. I really didn't know how to respond to that so I said thank you. He then offered to take me out to dinner to celebrate. I felt kind of honored that he was taking such a special interest in me but when we got to the restaurant he changed. I felt a very strong sexual energy emanating from him and he kept staring at me in a very sexual way. He told me I reminded him of his first girlfriend at Oxford, very sweet but with a hidden sexuality. My red flags went up and I cut it off right there. I told him that I had forgotten that I was supposed to proctor Dr. Reynolds stats exam that night and that I needed to get back right away.

Well, the next day in class he kept smiling at me and called on me to answer some questions. He never picked individuals to answer questions. I felt a little embarrassed and felt like everyone was staring at me.

The final straw came when he called me into his office to tell me that he was leaving early because he was heading to his cottage for the weekend. He asked me if I wanted to join him. I didn't know exactly what was going on. He then moved toward me and told me that he sensed a real sexual energy between us. What blew me away was when he said, "I've taken real good care of you haven't I, it sure would be nice if someone would take care of me for a change". I couldn't believe he was saying these things. I said, "No, I don't think so" and headed straight out of the office. I went into the bathroom and cried for an hour. I couldn't believe it. I was right all along, he was coming on to me. All that time I thought I was overreacting.

All weekend I thought about what I was going to do. I didn't sleep, I didn't eat, I didn't know what was going to happen on Monday morning. Should I go in, should I tell him I can't work for him anymore??? A million questions went through my mind. So I decided that I would go in and confront him.

Well on Monday morning, nothing happened. He went on as if nothing happened.

So I decided that I wouldn't pursue it. I guess I should have considering that the atmosphere became very cold. Over the course of the next couple of weeks he became more and more short with me. When I got my paper back from him in class I just about died. He gave me a C. I went to his office and asked him why I got such a bad mark. He asked me what mark I wanted. I told him I thought I should get a grade that I deserved. He looked at me and smiled with a really sickening smile. Then his face went stone cold and said that my writing skills were very poor for a graduate student and that I should consider taking a writing course. I couldn't believe he was saying this. This is the same guy who said that I stood out among the other graduate students. I began to wonder why I stood out. I began to question my own abilities.

Around the finals, he gave me more and more work to do and I was swamped. I told him such and he told me that I should get used to it because this was what grad school is all about. The atmosphere became very cold and condescending. We finished the study at the end of the Spring term and I couldn't handle the hatefulness anymore so I left.

I was devastated. But the more I thought about it the more I realized something was very wrong. The pieces began to fit together. After I denied his sexual advances he became a different person. He made me feel small, stupid, inadequate. In turn, this was reflected in my grades

and I actually felt compelled to leave the research job because the environment became so negative. Anyhow that's what happened.

Chair: Thank you Miss Phillips. Now I'll ask the committee members to ask any questions.

Mr. Green: How long did you work with Dr. Fitzpatrick?

Student: Well since the beginning of this academic year...so it was 8 months in total.

Mr. Green: You said that Dr. Fitzpatrick started to treat you differently...when did that happen?

Student: In February...after the winter break. And I quit in April.

Mr. Green: When did you file your complaint?

Student: In June (in March).

Mr. Green: Why did you wait 4 months after the disturbing behavior to make a complaint? (Why did you wait until March? Didn't the disturbing behavior occur in February?)

Student: Well It took me that long to get my thoughts and courage together to do this (Well it started in February but got progressively worse...so I decided to make a complaint when it got decidedly worse. It was only a month from the time of the incident).

Mr.Green: You received your marks before you filed the complaint, is that correct?

Student: Yes sir (no sir).

Mr. G: Were you waiting to see how you did on your courses before you filed a complaint? (But you did have some idea of how you were doing in your courses?)

Student: No sir (Yes sir).

Mr. Green: Miss Phillips, did you ever have sex with Dr. Fitzpatrick?

Student: No sir. I have never had sex with Dr. Fitzpatrick.

Mr. Green: Did you want to? Did you ever fantasize about the two of you together?

Student: No sir. I had only a professional interest in Dr. Fitzpatrick.

Mr. G: However, you did say you socialized with Dr. Fitzpatrick. Is this correct, Miss Phillips?

Student: Well...we went to dinner the odd time after working in the lab all night and I went to the pub after the tutorials but there was a group of us.

Mr.G.: Miss Phillips, Dr. Fitzpatrick was good to you wasn't he? He introduced you to other professors, wrote good letters of recommendation and gave you the opportunity to gain research experience.

Student: Yes, in the beginning. But he turned cold and began to undermine my competence when I rejected his advances.

Mr.G.: Can you please tell me your mark in this stats course and other stats courses? Did you always get As?

Student: No sir, I didn't always get As but I never received C's before either. My academic record speaks for itself. Up until this term my marks were in the A/A- (B/B-) range. During my whole undergraduate career I was a straight A (B+) student. During my first term as a graduate student I got straight As as well, however it was in this past term, my 2nd term as a grad student when my grades dropped. Now my average is a B (C+).

Mr. G: How do you explain the lower grades in your other courses as well?

Student: Dr. Fitzpatrick bombarded me with so much work and threats of deadlines all my work suffered. In addition, I began to doubt my abilities when he began to question them

and I started to have anxiety attacks about my intelligence and became very insecure about my academic work. I couldn't analyze effectively and write clearly.

Mr. G: This is your first year as a graduate student, is this correct?

Student: Yes.

Mr. G: Couldn't it be that you are simply getting used to the program and therefore your marks are not as high as you would like them to be?

Student: But my first term marks were As (Bs). If anything my marks would have been consistently bad through the whole year.

Mr. G.: OK, now, did anyone else ever notice this insecurity in you or the change in attitude he had toward you?

Student: Well I did confide in my friend, Sandra Taylor.

Mr. G: When did you confide in Miss Taylor?

Student: I talked to her in March.

Mr. G: What did you say to her?

Student: I told her about the cabin incident and how I felt that he had been acting very cold towards me ever since I rejected his advances. I told her that he was ignoring me and I felt extremely stressed everytime I went into the lab.

Mr. G: What did she say to you?

Student: She told me that if I felt uncomfortable, I should quit. Graduate school is too difficult as it is; there is no need to put up with that shit.

Mr. G: Did you tell anyone else in his lab about the incident or how you were feeling?

Student: No. I didn't.

Mr. G: Thank you. That is all my questions.

Chair: Ms. Dunbar, do you have any questions?

Ms. Dunbar: Yes. Miss Phillips, you indicate that you felt uncomfortable in a number of situations. Did you tell Dr. Fitzpatrick he was making you feel uncomfortable?

Student: Well...no. I didn't come right out and say it. I usually tried to get out of the situation or avoid personal conversations.

Ms. D: Why didn't you confront Dr. Fitzpatrick?

Student: Well, It wasn't that easy. At first I thought I was overreacting. Then when I realized something was wrong, I didn't know what to do...so I said nothing. I mean I was so confused what if I told him to stop it and got him mad? I was still in his class, he was writing me a recommendation for internal scholarships and besides he's pretty popular around here. I mean I'd be blacklisted.

Ms. D: So why did you finally bring a complaint to this committee?

Student: Well, when I realized what had happened I was furious. He has no right to undermine my competence and degrade me like that. I realized that my whole academic career could be affected by this. That research job was really important to me, I didn't want to leave it but I didn't have a choice, I couldn't take it anymore. It was either the job or my sanity. He took advantage of his position. Since I didn't sleep with him, he did everything in his power to make sure my life at school was a living hell.

Ms. D: Thank you. That's all.

Chair: All right Miss Phillips. That will be all. You will be hearing from us soon. Thank you for coming in.

CHAIR: Good afternoon Dr. Fitzpatrick. As you know, this proceeding is an investigation of a formal complaint lodged against you in which you have been accused of sexual harassment. I want to emphasize this is not a trial. This is an investigation. As such, you will be asked questions by this committee which you are required to answer. Although you may have someone present with you, including a lawyer, you are required to represent yourself. We have heard the complainant's testimony. At the end of this proceeding, we will hear the witnesses' testimonies and then make recommendations to the president which can result in one of three options: a dismissal of the complaint, a letter of reprimand to be put on your permanent file or your dismissal from your duties and responsibilities as a professor of this university. Have you understood everything thus far?

Dr. F: Yes.

CHAIR: Do you have any questions before we begin?

Dr. F: No.

CHAIR: All right then. Let us begin by having you tell us your reaction to the complaint.

Dr. F: Well as I understand it, I am being accused of sexual harassment because I invited a student to come to my cabin for the weekend. This is entirely ludicrous. I have been a professor here for 14 years and I have been inviting students up there for years. In fact, this is the first time anyone has ever complained. Students have been coming up to my cabin for years. I invite other faculty members as well. It's not a big deal. It's certainly not a method of luring students into a big seduction scenario as Miss Phillips has implied. It's absolutely ridiculous.

Second, Miss Phillips has mentioned that I touched her on a number of different occasions. I probably did touch her arm or put my arm around her shoulder on occasion. I have done this on other occasions but no other student female or male has ever indicated it bothered them, and in fact neither did Miss Phillips. I didn't know it bothered her. She never said a word to me. Moreover, I can state emphatically that I never touched Miss Phillips in a sexual way or with sexual intent.

Third, Miss Phillips said that after she declined to come to the cabin I treated her differently. I did find our relationship changed near the end of the term but not because she declined to come. Everyone knows that March and April are crazy months. I didn't spend as much time in the lab working with Miss Phillips. I left her on her own to do things. It turns out that in the absence of close supervision, she is not overly competent. Therefore without constant supervision her work lacked quality. I did have to remind her time and time again of details she had missed and warned her about her carelessness. Miss Phillips may have the potential to be a fine graduate student but she needs to work on becoming somewhat more independent and organized in her work.

Fourth, Miss Phillips is complaining that her mark in my class went down. It did go down. On the midterm and the final her test scores were very poor. However she did not come to my posted office hours or extra tutorials to try and get extra help. I asked if there was anything I could do after the midterm marks come back and she said she could handle it so I left her alone.

I think Miss Phillips is finding graduate school quite difficult. I think she is very confused and overwhelmed and that all she needs is some support and encouragement. This situation has gotten out of hand and is completely uncalled for.

Chair: Thank you Dr. Fitzpatrick. Now, I'll ask the committee members to ask questions.

Mr. G: Dr. Fitzpatrick, in Miss Phillips testimony concerning the invitation to the cabin, she stated that you told her that you sensed a real sexual energy between the two of you. Did you say this?

Dr. F: That is absolutely untrue. I never once propositioned Miss Phillips. I have no interest in Miss Phillips other than a professional one.

Mr. G: But you did go out on social occasions and invite her to your cabin?

Dr. F: Yes, but I do that with all my grad students. I am a very social person.

Mr. G: You've said you've invited many students to your cabin. Is that correct?

Dr. F: Yes it is .

Mr. G: Do you invite males to your cabin as well?

Dr. F: Yes I do...males and females.

Mr. G: Have you ever invited a female student to come to your cabin alone?

Dr. F: Yes I have.

Mr. G: Have they gone?

Dr. F: Yes they have.

Mr. G: How many of these female students have you had sex with at your cabin?

Dr. F: A few.

Mr. G: How many is a few Dr. Fitzpatrick?

Dr. F: Two.

Mr. G: How many female students have you had at your cabin?

Dr. F: Oh, I don't know...20 maybe 30 over the years...yeah actually more like thirty.

Mr. G: And you have had sex with two of them?

Dr. F: I have had sex with two of them and have not had sex with a significant of them. Those sexual relationships I did have were between two consenting adults. There was never any form of harassment or force.

Mr. G: Thank you Dr. F. That will be all.

Chair: Ms. Dunbar, do you have any questions?

Ms. D: Thank you. Dr. Fitzpatrick did you ever have sex with Miss Phillips?

Dr. F: No I have never had sex with Miss Phillips.

Ms. D: Dr. Fitzpatrick did you ever want to have sex with Miss Phillips?

Dr. F: No, ours was strictly a professional relationship.

Ms. D: In her testimony, Miss Phillips revealed that you talked about some pretty intimate details of your days as a students, including your sexual activities. Can you please tell me the details of this conversation?

Dr. F: It was a conversation in the lab, other students were around, we were discussing the change in sexual mores over the last thirty years. Someone asked what it was like when I was in graduate school. I told them that in the 60's sexual activity was a lot freer, people were into sex with multiple partners, on many occasions it was sex with multiple partners at the same time. Basically, that was what the conversation was about. No one indicated being uncomfortable. You can ask my other students. I like to keep our lab warm and friendly...a place where students feel safe and welcome. I give my students respect and they respect me. I am quite shocked that Miss Phillips believed that I created a hostile environment for her.

Ms. D: Miss Phillips received a grade of C on her last paper for your stats class. Why did you give Miss Phillips a C?

Dr. F: Actually, I didn't. My teaching assistant, Miss Randall, gave her a C. Christina (Miss Randall) showed me her paper and I agreed with her marking. Miss Phillips' paper lacked any original ideas and her writing skills were atrocious. When Miss Phillips approached me with her grade I told her that .

Ms. D: Thank you Dr. Fitzpatrick. That's all.

Chair: All right Dr. Fitzpatrick that will be all. You will be hearing from us soon. Thank you for coming in.

Witness 3.

Chair: Miss Miles you have been asked here today to answer some questions that have been brought up in the hearing concerning Miss Phillips' allegations that Dr. Fitzpatrick sexually harassed her. We will proceed with Mr. Green.

Mr G: Miss Miles, can you please tell us the nature of your relationship with Dr. Fitzpatrick?

Miles: I was a graduate student of his from 1988-1990. I was in his statistics course and he was my graduate supervisor.

Mr. G: What happened in 1990 to change the relationship?

Miles: I graduated and went on to do my Ph.D. studies elsewhere.

Mr. G: How would you say you got along with Dr. Fitzpatrick?

Miles: Fine.

Mr. G: You spent two years of your graduate career with this man and all you can say is fine?

Miles: Well it started off great but kind of ended on a bad note.

Mr. G: How so?

Miles: Well we basically stopped talking to each other after I graduated.

Mr. G: Did you simply lose touch?

Miles: More like we didn't want to make the effort.

Mr. G: Can you tell us more about the nature of your relationship? Did you have a sexual relationship with Dr. Fitzpatrick?

Miles: Yes. Dr. Fitzpatrick and I had a sexual relationship in 1989, the year after I started the program.

Mr. G: Did you feel pressured by him to have a relationship Miss Miles?

Miles: No. There was no pressure.

Mr. G: What happened to the relationship?

Miles: I met someone else, so I ended it.

Mr. G: What was Dr. Fitzpatrick's reaction to you ending it?

Miles: Well at first he seemed to accept it but afterward he became more and more angry towards me. Kind of like a spurned lover. Well, it got to the point where I only came into the lab to get him to sign things. He just made life too unbearable.

Mr. G: You said he made life unbearable, how did he do that?

Miles: He would criticize my work all the time and in front of other graduate students. He would never use constructive criticism, just plain criticism and he stopped including me in other research projects. He made me feel very inept and I came to regret our past relationship because I think it had a detrimental effect on my years in the Masters Program.

Mr. G: Thank you Miss Miles.

Ms. D: Miss Miles, how old are you?

Miles: I am 30 years old.

Ms. D: How old were you when you had your relationship with Dr. Fitzpatrick?

Miles: Let's see... I would have been 26.

Ms. D: 26 years old...an adult...yes. Now you mentioned that Dr. Fitzpatrick never pressured you in any way to have a sexual relationship with him, is that correct, Miss Miles?

Miles: Yes. There was never any coercion or pressure.

Ms. D: So you would say you were mutually consenting adults?

Miles: Yes. However there did appear to be consequences when the relationship ended.

Ms. D: Have you ever had any other sexual relationships Miss Miles?

Miles: Yes.

Ms. D: Aren't there always consequences to ending relationships Miss Miles?

Miles: Yes I guess so.

Ms. D: Have you ever been dumped before Miss Miles?

Miles: Yes.

Ms. D: Were you hurt, angry, depressed?

Miles: Yes I guess I was.

Ms. D: So it is not so unusual that Dr. Fitzpatrick was hurt?

Miles: I guess not.

Ms. D: Did you say you went on to do your Ph.D. Miss Miles?

Miles: Yes I am currently in my last year.

Ms. D: You appear to have finished your masters program in good time would you agree?

Miles: Yes just under two years.

Ms. D: And you got into a Ph.D. program. After the relationship ended he wrote you strong letters of recommendation and helped you out a great deal. As your graduate supervisor, I assume he wrote you letters of recommendation to get into a Ph.D. program , helped you through your Masters. Am I correct in that assumption Miss Miles?

Miles: Yes he did.

Ms. D: So Dr. Fitzpatrick didn't hinder your academic career after the relationship ended but actually helped you to pursue it by helping you graduate from the Masters program in record time and helping you get into the Ph.D. program.

Miles: Yes...I guess so.

Ms D: Thank you Miss Miles.

Witness 4:

Chair: Miss Taylor you have been asked here today to answer some questions that have been brought up in the hearing concerning Miss Phillips' allegations that Dr. Fitzpatrick sexually harassed her. We will proceed with Mr. Green.

Mr Green: Miss Taylor, can you explain the relationship you have with the complainant?

Taylor: Miss Phillips is a fellow colleague of mine in the masters program and we have also been friends since last September.

Mr. G: So how long have you known Miss Phillips?

Taylor: About 10 months.

Mr. G: Can you tell us what Miss Phillips said to you concerning her relationship with Dr. Fitzpatrick?

Taylor: Well she didn't say anything for the longest while but I could tell something was bothering her. She seemed very distracted. I have been her study partner since the beginning of the year and she seemed much more distracted in the second term. Finally she confided in me about the invitation to the cabin and how she felt she was being penalized because she didn't go .

Mr. G: Did she tell you that Dr. Fitzpatrick was interested in her in a sexual way?

Taylor: Yes she did.

Mr. G: What did you say to Miss Phillips?

Taylor: Well I told her that if he was being vengeful that it was best for her to get out of the situation because he could cause more problems and it just wasn't worth it. Graduate school is hard enough as it is without all this other unnecessary pressure going on.

Mr. G: What did she finally do?

Taylor: She took my advice and quit. Good thing too because she is back to her old self again, confident, bright and as eager to graduate as the rest of us.

Mr. G: Thank you Miss Taylor.

Chair: Ms. Dunbar do you have any questions?

Ms. D: Miss Taylor, you say you have been friends with Miss Phillips for 10 months?

Taylor: Yes, that's correct.

Ms. D: Did you and she spend anytime together that wasn't university related?

Taylor: Well not really but we have spent countless hours doing university work.

Ms. D: So you really aren't that familiar with what goes on in her personal life.

Taylor: Well we've talked about each other's personal lives but I'm not part of it.

Ms. D: Thank you Miss Taylor.

Witness 5

Chair: Miss Rollins you have been asked here today to answer some questions that have been brought up in the hearing concerning Miss Phillips' allegations that Dr. Fitzpatrick sexually harassed her. We will proceed with Mr. Green.

Mr G: Miss Rollins can you tell us the nature of your relationship with Dr. Fitzpatrick?

Rollins: He was my professor for my stats course and I am a Ph.D. student in his lab.

Mr G: How long have you known Dr. Fitzpatrick?

Rollins: Well like I said I had him for a graduate stats course in 1990 and I entered his lab as a Ph.D. student in 1991. So I have known him for three years.

Mr. G: Has Dr. Fitzpatrick ever invited you to his cabin for the weekend?

Rollins: Oh yes on a number of different occasions. He is always inviting his graduate students up to his cabin.

Mr G: Have you ever gone?

Rollins: Yes I have. I've been to his cabin three times.

Mr G: Did you go alone or were other grad students with you?

Rollins: Well I went twice by myself and once with two other students.

Mr G: What did you do as his cabin?

Rollins: Well he takes people on tours and basically we work. We come up with new ideas for research, discuss the current research and talk about conferences, funding stuff like that.

Mr G: Has there ever been an occasion where Dr. Fitzpatrick has come on to you in a sexual way?

Rollins: No, there never has. Dr. Fitzpatrick is very professional. His cabin is not a den of lust like Miss Phillips implies.

Mr G: Would you please explain the atmosphere in the lab?

Rollins: Actually it is the best lab situation I have ever been in. The students get along, help each other out and Dr. Fitzpatrick fosters a very close, comfortable relationship with his students. He never pulls rank or makes anyone feel less than anyone else. Although he is our advisor he treats us like his colleagues. I really respect Dr. Fitzpatrick and the situation he has set up for his grad students.

Mr G: Has Dr. Fitzpatrick ever touched you?

Rollins: Well yes he has. He is a touchy person. But it doesn't bother me. Most of the time they are congratulatory pats or sympathetic pats.

Mr G: Can you give us an example?

Rollins: Well...oh yeah about three weeks ago I had submitted a paper to a journal for publication. I was very upset when it came back as rejected. He comforted me by putting his arm around my shoulder. I felt he understood and he tried to make me feel better. Dr. Fitzpatrick is a real trooper and he is always there when you need him.

Mr G: Thank you Miss Rollins.

Chair: Ms. Dunbar do you have any questions for Miss Rollins

Ms. D: Miss Rollins, do you know Miss Phillips?

Rollins: Yes I do. She worked in our lab for the past year.

Ms. D: What do you think of Miss Phillips?

Rollins: She seems nice. I don't know her that well because she keeps pretty much to herself.

Ms. D: Miss Rollins, you said that Dr. Fitzpatrick never came on to you in a sexual way?

Rollins: Yes that is correct.

Ms. D: Have you ever had a sexual relationship with Dr. Fitzpatrick?

Rollins: No sir.

Ms. D: Do you know if he has had sexual relationships with his other graduate students?

Rollins: I don't know.

Ms. D: Miss Rollins, you are a Ph.D. student of Dr. Fitzpatrick's is this correct?

Rollins: Yes sir.

Ms. D: When do you expect to graduate?

Rollins: Next spring.

Ms. D: What do you plan to do when you graduate?

Rollins: I plan to pursue an academic career.

Ms. D: When you apply for academic positions you need good letters of recommendation isn't that so Miss Rollins?

Rollins: Yes .

Ms. D: So have you started to apply for teaching positions?

Rollins: Yes I have.

Ms. D: Is Dr. Fitzpatrick writing recommendation letters for you?

Rollins: Yes he is

Ms. D: So it is important that he have a favorable impression of you, wouldn't you say Miss Rollins?

Rollins: I guess so.

Ms. D: Thank you Miss Rollins.

Witness 6:

Chair: Miss Randall you have been asked here today to answer some questions that have been brought up in the hearing concerning Miss Phillips' allegations that Dr. Fitzpatrick sexually harassed her. We will proceed with Mr. Green.

Mr. G: Miss Randall, can you tell me how you know Dr. Fitzpatrick?

Randall: I was his teaching assistant for his graduate statistics course from September to April this year.

Mr. G: What do your duties involve?

Randall: I hold T.A. hours once a week for three hours and I mark papers and exams.

Mr. G: Do you mark all the papers and exams?

Randall: Yes. Dr. Fitzpatrick gives me a marking key and I mark them according to that key.

Mr. G: Are you familiar with Miss Phillips' work?

Randall: Yes. I have marked all of her exams and papers.

Mr. G: Can you describe her progress?

Randall: Her progress declined at the end of the last term. She went from an A- student to a C student.

Mr. G: Why did she end up a C student?

Randall: Well her work on her papers became very disorganized and incomplete. She missed whole questions.

Mr. G: Did you talk to Dr. Fitzpatrick about Miss Phillips' decline?

Randall: Yes. He was surprised but looked it over and had to agree with me.

Mr. G: Can you explain why she did so poorly the second term?

Randall: Well most students find the second term much more difficult as she did and she was not as careful as she was the first term. Her work became sloppy.

Mr. G: Thank you Miss Randall.

Ms. D: Miss Randall, what was it like working for Dr. Fitzpatrick?

Randall: Well he is very demanding but he also shows a lot of confidence in my decisions and usually backs me up if a student doesn't agree with my marking.

Ms. D: Has Dr. Fitzpatrick ever pressured you to change a mark when you felt you were right?

Randall: No he hasn't.

Ms. D: Did he ever ask you to change Miss Phillips' marks?

Randall: No he never did.

Ms. D: You are going to be Dr. Fitzpatrick's t.a again this year aren't you Miss Randall?

Randall: Yes I am.

Ms. D: You are looking forward I'm sure to a good recommendation from him after you have t.a.'d for him, is that correct?

Randall: Yes I'm sure I will.

Ms. D: So it's important you maintain a good working relationship with Dr. Fitzpatrick is that correct?

Randall: Yes.

Ms. D: Thank you that's all.

Script:

Civil Court Case/Judge's Opening Statement

(Italicized script indicates differences between this procedure and committee procedure).

Judge: Good afternoon. As you know this proceeding is an investigation of a formal complaint of sexual harassment made by Miss Sally Phillips, a student of this university against Dr. Fitzpatrick, a professor of this university. Both the complainant and the defendant will be represented by their lawyers. The prosecution will begin with their opening statement, followed by the defendant's opening statement. This will be followed by the direct examination of the prosecution's witnesses and cross examination of these witnesses by the defense. Then the defense will directly examine their witnesses which will be followed by a cross examination by the prosecution. Each will give closing arguments.

The issue under investigation is whether Dr. Fitzpatrick sexually harassed Miss Phillips during the 1993 winter term.

The University Sexual Harassment Policy defines sexual harassment as

- (1) unwanted attention of a sexually oriented nature, made by a person who knows or ought reasonably to know that such attention is unwanted; and/or*
- (2) an implied or expressed promise of reward for complying with or submitting to a sexually oriented request or advance; and/or*
- (3) an implied or expressed threat of reprisal for not complying with or submitting to a sexually oriented request or advance*
- (4) unwanted behavior such as unwarranted touching, suggestive remarks, leering, compromising invitations, demands for sexual favours and sexual assault.*
- (5) engaging in a course of sexual comment or conduct that is known or ought reasonably be known to be unwelcome. It may take the form of excluding an individual or group from rights and/or privileges to which they are otherwise entitled.*

(6) psychological, verbal or physical harassment. It is behavior prohibited by the University for all persons and circumstances over which the university has jurisdiction.

The requirement for onus and standard of proof in the application of these regulations shall be the "preponderance of evidence" or "on a balance of probabilities".

After all the evidence has been heard, you will be required to come to a unanimous vote of guilty or not guilty. Three actions will result, if Dr. Fitzpatrick is found not guilty, the complaint will be dismissed. If he is found guilty one of two options will be chosen: a letter or reprimand to be put on Dr. Fitzpatrick's permanent file or dismissal of Dr. Fitzpatrick from his duties and responsibilities as a professor of this university.

Prosecution's Opening Statement:

Members of the jury, my client, Miss Sally Phillips is charging Dr. Fitzpatrick with sexual harassment. Miss Phillips will tell you how Dr. Fitzpatrick used his position of authority as a professor at this university to try and coerce my client, Miss Phillips, into having a sexual relationship with him. She will also tell you how, after she declined Dr. Fitzpatrick's invitation to his cabin for the weekend, he gave her the cold shoulder and created for her a very stressful environment in which to work. Ultimately, Miss Sally Phillips will tell you that her poor performance in her second term as a graduate student can be attributed to the hostile manner with which Dr. Fitzpatrick treated her and in turn to the lack of confidence and stress that developed and lead to her bad performance.

Defense's Opening Statement:

Members of the jury, my client, Dr. Harry Fitzpatrick has been charged with sexual harassment. We will show that there is no evidence whatsoever to find Dr. Fitzpatrick guilty of sexual harassment. Instead, we will show that this is simply a case of a student who was very distraught over her marks from her first year as a graduate student and is using this forum to try and make sense of her poor performance. Dr. Fitzpatrick will tell you about his purely professional relationship with Miss Phillips and will tell you that he did not sexually harass Miss Phillips in any way.

Judge: Mr Burt, you can call your first witness.

Prosecution: We call Miss Phillips to the stand.

Prosecution: Direct Examination Witness #1.

Prosecution: Miss Phillips, can you please tell us the circumstances surrounding your first meeting with Dr. Fitzpatrick?

Student: Well...it started back in September of this academic year when I went to Dr. Fitzpatrick's office during his office hours. Dr. Fitzpatrick is my stats professor. I was confused by something he explained in the last class and I wanted to clear it up before the midterm. I had never been to his office before and I ended up getting lost so by the time I got there his office hours were over. Needless to say I was a little anxious and out of breath when I walked into his office. He told me to close the door and sit down. I talked to him about my question and he brought his chair closer to mine because he wanted to see how I had worked out my answer. He showed me where I went wrong and told me to work it out there to make sure I understood him. He got up and got a coffee. As I was working on it, I felt kind of uncomfortable because he just stood there and stared at me, without saying anything. However, I was so wrapped up in my problem I just wanted to get it right so I just put my head down and figured it out.

When I finished he came over to check it and it was right. He congratulated me by patting me on the knee. I'm not a touchy feely type of person so I felt a little uncomfortable, but then I thought maybe I was overreacting. Then we talked a bit about the class, the university and, you know, the city. I'm new here so he was telling me about the local spots. He then mentioned that after the tutorial on Wednesday nights a few people and he usually go to the pub for a drink and suggested I think about coming along. I told him I didn't know how people find the time to socialize around here. I felt so overwhelmed by everything. It is so different from being an undergraduate and being away from home didn't help either. He then asked me why I had come to university. I thought it was an unusual question. Then he asked if I came here to find a husband. I was kind of shocked that this man had such traditional attitudes. I replied something to the effect of no I'm independent enough, I can support myself. To which he replied, I shouldn't discount the support of a boyfriend or husband, especially in graduate school, the pressure and competition can be quite rough. At this point, I didn't know where the conversation was going so I got up and told him I had to go. He got up and walked me to the door and as I was opening the door he said I could call him anytime if I had any questions about anything or if I just wanted to talk. And then he patted me on the back on the way out. I walked out of his office and felt kind of

weird about our meeting. I mean I had never had any kind of a personal conversation with a professor before.

Prosecution: Was that your only encounter with Dr. Fitzpatrick?

Student: No, at the following tutorial, he approached me and Sandra Taylor after class and asked if we were going to the pub. I wasn't sure but Sandra wanted to go so I decided to tag along. When I got there, Dr. Fitzpatrick motioned for me to come and sit beside him. As I approached him he said he saved a seat especially for me and patted me on the knee when I sat down. He said that he was glad that I came and that this would be a chance for me to relax a little. We ended up talking about my undergraduate days and he couldn't get over my research experience. You see I have been a research assistant since I was in 2nd year. He asked me if I would be interested in doing some research for him. Of course, I jumped at the chance. I really needed the money and the experience would be great especially at a new university and all. He then proceeded to introduce me to the gang as his ..."new partner" and he hesitated before he said ..."in research".

Prosecution: Can you please explain your experience as Dr. Fitzpatrick's research assistant?

Student: Well everything was going fine. He was really nice. We would talk about his days as a student, his love of the outdoors, his family. I felt like I was really getting to know him. But at the same time, I felt a little uncomfortable. He revealed some pretty intimate details of his days as a student, the whole activist thing, the sit-ins, the love-ins and he liked to talk about how much sex was a part of the whole experience. He would talk about how thank God no one had to worry about AIDS back then, how at the Frat parties the theme was free love, free sex and multiple partners. I basically just listened and didn't say anything. I also felt somewhat uncomfortable because he was very touchy, he would take any opportunity to rub my shoulders (and tell me I probably needed a nice back rub, sitting in front of the computer all day) and touch me you know, my arm, my knee. I didn't really say anything because I thought that maybe I was reading too much into it even though it left me with this very uncomfortable feeling.

One day on my way to class I stopped in to the lab to pick up some printouts I had been waiting for and he called me into the office. He asked me to close the door. He proceeded to tell me that I was doing a fantastic job, that I really stood out from alot of the other first year graduate

students and that he had decided that he was going to put me down as an author on this research project. I was thrilled. I mean sometimes you wonder about your abilities and when you get such high praise you feel really good. He came over and hugged me. It seemed to be a long hug and I could feel his breath on my neck. It was highly uncomfortable. I pulled back and he stared right into my eyes and told me what I terrific partner I was going to make. I really didn't know how to respond to that so I said thank you. He then offered to take me out to dinner to celebrate. I felt kind of honored that he was taking such a special interest in me but when we got to the restaurant he changed. I felt a very strong sexual energy emanating from him and he kept staring at me in a very sexual way. He told me I reminded him of his first girlfriend at Oxford, very sweet but with a hidden sexuality. My red flags went up and I cut it off right there. I told him that I had forgotten that I was supposed to proctor Dr. Reynolds stats exam that night and that I needed to get back right away.

Prosecution: Did he take you back?

Student: Yes.

Prosecution: What happened after that?

Student: Well, the next day in class he kept smiling at me and called on me to answer some questions. He never picked individuals to answer questions. I felt a little embarrassed and felt like everyone was staring at me.

Prosecution: Did Dr. Fitzpatrick ever tell you he was interested in you sexually?

Student: Yes. He called me into his office to tell me that he was leaving early because he was heading to his cottage for the weekend. He asked me if I wanted to join him. I didn't know exactly what was going on. He then moved toward me and told me that he sensed a real sexual energy between us. What blew me away was when he said, "I've taken real good care of you haven't I, it sure would be nice if someone would take care of me for a change". I couldn't believe he was saying these things. I said, "No, I don't think so" and headed straight out of the office. I went into the bathroom and cried for an hour. I couldn't believe it. I was right all along, he was coming on to me. All that time I thought I was overreacting.

Prosecution: Can you tell me what you did after that incident?

Student: All weekend I thought about what I was going to do. I didn't sleep, I didn't eat, I didn't know what was going to happen on Monday morning. Should I go in, should I tell him I can't work for him anymore??? A million questions went through my mind. So I decided that I would go in and confront him.

Well, on Monday morning, nothing happened. He went on as if nothing happened.

So I decided that I wouldn't pursue it. I guess I should have considering that the atmosphere became very cold. Over the course of the next couple of weeks he became more and more short with me. When I got my paper back from him in class I just about died. He gave me a C. I went to his office and asked him why I got such a bad mark. He asked me what mark I wanted. I told him I thought I should get a grade that I deserved. He looked at me and smiled with a really sickening smile. Then his face went stone cold and said that my writing skills were very poor for a graduate student and that I should consider taking a writing course. I couldn't believe he was saying this. This is the same guy who said that I stood out among the other graduate students. I began to wonder why I stood out. I began to question my own abilities.

Prosecution: Why did you leave your research job with Dr. Fitzpatrick?

Student: Around the finals, he gave me more and more work to do and I was swamped. I told him such and he told me that I should get used to it because this was what grad school is all about. The atmosphere became very cold and condescending. We finished the study at the end of the Spring term and I couldn't handle the hatefulness anymore so I left.

Prosecution: What did you do after that?

Student: I was devastated. But the more I thought about it the more I realized something was very wrong. The pieces began to fit together. After I denied his sexual advances he became a different person. He made me feel small, stupid, inadequate. In turn, this was reflected in my grades and I actually felt compelled to leave the research job because the environment became so negative. Anyhow that's what happened.

Prosecution: Did you ever have any interest, other than professional, in Dr. Fitzpatrick?

Student: No, sir.

Prosecution: Why do you think Dr. Fitzpatrick become cold and condescending toward you?

Student: Because, I wouldn't sleep with him.

Prosecution: Did you ever give Dr. Fitzpatrick any indication that you were interested in him in a romantic or sexual way?

Student: No. Never.

Prosecution: How has this situation affected you?

Student: Well, I do not feel very confident about my abilities as a graduate student. I have had to register for a course at another university because Dr. Fitzpatrick is the only professor that teaches the course here and it is a core course so I need to take it. I did very poorly in my 2nd term because of Dr. Fitzpatrick's immature reaction to my rejection of his sexual advances and I have had to seek counseling because of all this.

Prosecution: So this has affected your academic career, would you say that Miss Phillips?

Student: Yes I certainly would.

Prosecution: Thank you Miss Phillips.

Defense: Cross Examination.

Defense: Miss Phillips, you have mentioned a number of different times that you thought you were overreacting to the situation. So you agree that you believed that you were overreacting, Miss Phillips?

Student: Well at first...but...

Defense: What made you finally decide you weren't overreacting?

Student: When he came right out and said he sensed a real sexual energy between us. He was clear about his intention.

Defense: Really...what were his intentions Miss Phillips?

Student: To sleep with me.

Defense: Did he specifically tell you he wanted to sleep with you?

Student: Well not in so many words but...

Defense: Miss Phillips you said that Dr. Fitzpatrick hugged you and you felt his breath on your neck?

Student: Yes that is correct.

Defense: Did you have a problem with this?

Student: Well I think he was breathing on my neck...he was aroused.

Defense: You said you think he was aroused?

Student: Possibly.

Defense: Miss Phillips has your mother ever hugged you?

Student: Well yes.

Defense: Have you never felt her breath on your neck before?

Student: Well yes but...

Defense: Would you say your mother was aroused?

Student: Of course not.

Defense: Miss Phillips you said you sensed a strong sexual energy emanating from him? How did you sense this?

Student: He stared at me...kept looking deep into my eyes.

Defense: Have you ever stared at someone in the eyes, Miss Phillips?

Student: Yes.

Defense: Were you trying to project a strong sexual energy?

Student: Well...no.

Defense: Miss Phillips, you said that Dr. Fitzpatrick called on you specifically to answer questions that he NEVER picked individuals to answer questions, is this correct?

Student: Yes...that's right.

Defense: Never? Dr. Fitzpatrick NEVER EVER picked individuals to answer questions?

Student: Well, maybe the odd time but not as often as he asked me.

Defense: You are now admitting that what you said earlier is not accurate. You are admitting that Dr. Fitzpatrick does pick others to answer questions, is that right Miss Phillips?

Student: Well yes I guess so.

Defense: Ok Miss Phillips, how long did you work with Dr. Fitzpatrick?

Student: Well since the beginning of this academic year...so it was 8 months in total.

Defense: You said that Dr. Fitzpatrick started to treat you differently...when did that happen?

Student: In February...after the winter break. And I quit in April.

Defense: When did you file your complaint?

Student: In June (in March).

Defense: Why did you wait 4 months after this supposedly disturbing behavior to make a complaint? (Why did you wait until March? Didn't the disturbing behavior occur in February?)

Student: Well It took me that long to get my thoughts and courage together to do this (Well it started in February but got progressively worse...so I decided to make a complaint when it got decidely worse. It was only a month from the time of the incident).

Defense: What do you mean by "get your thoughts together"? (Why did you wait one full month?)

Student: Well I was confused...I...

Defense: You say you were confused...what were you confused about Miss Phillips?

Student: Well I was confused about why Dr. Fitzpatrick was being so cold and mean.

Defense: In other words, you did not connect Dr. Fitzpatrick supposedly breathing on you neck and inviting you to his cabin, as being related to his supposedly mean behavior until four months after the events occurred, is that right?

Student: Well, I guess I wasn't sure until then.

Defense: Weren't you really confused about whether you were overreacting and reading too much into things? Isn't that what you were confused about Miss Phillips?

Student: No.

Defense: Very well, Miss Phillips. You received your marks before you filed the complaint, is that correct?

Student: Yes sir (No sir)..

Defense: Were you waiting to see how you did on your courses before you filed a complaint? (But you did have some idea of how you were doing in your courses?)

Student: No sir (Yes sir).

Defense: Miss Phillips, did you ever have sex with Dr. Fitzpatrick?

Student: No sir. I have never had sex with Dr. Fitzpatrick.

Defense: Did you want to? Did you ever fantasize about the two of you together?

Student: No sir. I had only a professional interest in Dr. Fitzpatrick.

Defense: However, you did say you socialized with Dr. Fitzpatrick. Is this correct, Miss Phillips?

Student: Well...we went to dinner the odd time after working in the lab all night and I went to the pub after the tutorials but there was a group of us.

Defense: Miss Phillips, Dr. Fitzpatrick was good to you wasn't he? He introduced you to other professors, wrote good letters of recommendation and gave you the opportunity to gain research experience.

Student: Yes, in the beginning. But he turned cold and began to undermine my competence when I rejected his advances.

Defense: Can you please tell me your mark in this stats course and other stats courses? Did you always get As?

Student: No sir, I didn't always get As but I never received C's before either. My academic record speaks for itself. Up until this term my marks were in the A/A- (B/B-)range. During my whole undergraduate career I was a straight A (B+) student. During my first term as a graduate student I got straight As as well, however it was in this past term, my 2nd term as a grad student when my grades dropped. Now my average is a B (C+).

Defense: Miss Phillips you received a B in your testing course, a B+ in your criminal justice course and a B+ in your perception course, is that right?

Student: Yes that's right.

Defense: How do you explain the lower grades in your other courses as well?

Student: Dr. Fitzpatrick bombarded me with so much work and threats of deadlines all my work suffered. In addition, I began to doubt my abilities when he began to question them and I started to have anxiety attacks about my intelligence. I became very insecure about my academic work. I couldn't analyze effectively or write clearly.

Defense: Miss Phillips are you saying you were confused, insecure, anxious and not able to write or analyze effectively?

Student: Yes.

Defense: So you admit you were confused during the second term of your academic year?

Student: Yes.

Defense: This is your first year as a graduate student, is this correct?

Student: Yes.

Defense: Is it possible that you are simply getting used to the program and therefore your marks are not as high as you would like them to be?

Student: But my first term marks were As (Bs). If anything my marks would have been consistently bad through the whole year.

Defense: OK. Now, did anyone else ever notice this insecurity in you or the change in attitude he had toward you?

Student: Well I did confide in my friend, Sandra Taylor.

Defense: When did you confide in Miss Taylor?

Student: I talked to her in March.

Defense: What did you say to her?

Student: I told her about the cabin incident and how I felt that he had been acting very cold towards me ever since I rejected his advances. I told her that he was ignoring me and I felt extremely stressed everytime I went into the lab.

Defense: What did she say to you?

Student: She told me that if I felt uncomfortable, I should quit. Graduate school is too difficult as it is; there is no need to put up with that shit.

Defense: Did you tell anyone else in his lab about the incident or how you were feeling?

Student: No. I didn't.

Defense: Miss Phillips, you indicate that you felt uncomfortable in a number of situations. Can you tell me what you mean by uncomfortable?

Student: Well I felt stressed whenever I was around him. He was very condescending and he constantly belittled me and my work.

Defense: Now, honestly Miss Phillips, did he have any reason to be less than impressed by your work?

Student: Not that I know of. I mean I know I don't know everything but I think I can hold my own.

Defense: But Miss Phillips, you just testified that you were confused, anxious, insecure and unable to analyze and write effectively and now you are saying you can hold your own?

Student: Well...I...

Defense: In fact Miss Phillips, you were having a difficult time holding your own, weren't you?

Student: Like I said, it was a bad time.

Defense: Miss Phillips, did you tell Dr. Fitzpatrick he was making you feel uncomfortable?

Student: Well...no. I didn't come right out and say it. I usually tried to get out of the situation or avoid personal conversations.

Defense: Why didn't you confront Dr. Fitzpatrick?

Student: Well, It wasn't that easy. At first I thought I was overreacting. Then when I realized something was wrong, I didn't know what to do...so I said nothing. I mean I was so confused what if I told him to stop it and got him mad? I was still in his class, he was writing me a recommendation for internal scholarships and besides he's pretty popular around here. I mean I'd be blacklisted.

Defense: Well now Miss Phillips, you said earlier that you were sure Dr. Fitzpatrick had come onto you and then you said you thought you were overreacting, and now again you said you thought you were overreacting and confused, so in fact your ability to make decisions was affected and you weren't confident in your decisions, isn't that right Miss Phillips? You really are quite confused about this whole incident aren't you?

Student: Well...

Defense: That's all Miss Phillips.

Prosecution: Direct Examination Witness #2.

Prosecution: Miss Miles, can you please tell us the nature of your relationship with Dr. Fitzpatrick?

Miles: I was a graduate student of his from 1988-1990. I was in his statistics course and he was my graduate supervisor.

Prosecution: What happened in 1990 to change the relationship?

Miles: I graduated and went on to do my Ph.D. studies elsewhere.

Prosecution: How would you say you got along with Dr. Fitzpatrick?

Miles: Fine.

Prosecution: You spent two years of your graduate career with this man and all you can say is fine?

Miles: Well it started off great but kind of ended on a bad note.

Prosecution: How so?

Miles: Well we basically stopped talking to each other after I graduated.

Prosecution: Did you simply lose touch?

Miles: More like we didn't want to make the effort.

Prosecution: Can you tell us more about the nature of your relationship? Did you have a sexual relationship with Dr. Fitzpatrick?

Miles: Yes. Dr. Fitzpatrick and I had a sexual relationship in 1989, the year after I started the program.

Prosecution: Did you feel pressured by him to have a relationship Miss Miles?

Miles: No. There was no pressure.

Prosecution: What happened to the relationship?

Miles: I met someone else, so I ended it.

Prosecution: What was Dr. Fitzpatrick's reaction to you ending it?

Miles: Well at first he seemed to accept it but afterward he became more and more angry towards me. Kind of like a spurned lover. Well, it got to the point where I only came into the lab to get him to sign things. He just made life too unbearable.

Prosecution: You said he made life unbearable, how did he do that?

Miles: He would criticize my work all the time and in front of other graduate students. He would never use constructive criticism, just plain criticism and he stopped including me in other research projects. He made me feel very inept and I came to regret our past relationship because I think it had a detrimental effect on my years in the Masters Program.

Prosecution: Thank you Miss Miles.

Defense: Cross Examination/Witness 2

Defense: Miss Miles, how old are you?

Miles: I am 30 years old.

Defense: How old were you when you had your relationship with Dr. Fitzpatrick?

Miles: Let's see... I would have been 26.

Defense: 26 years old...an adult...yes. Now you mentioned that Dr. Fitzpatrick never pressured you in any way to have a sexual relationship with him, is that correct, Miss Miles?

Miles: Yes. There was never any coercion or pressure.

Defense: So you would say you were mutually consenting adults?

Miles: Yes. However there did appear to be consequences when the relationship ended.

Defense: Have you ever had any other sexual relationships Miss Miles?

Miles: Yes.

Defense: Aren't there always consequences to ending relationships Miss Miles?

Miles: Yes I guess so.

Defense: Have you ever been dumped before Miss Miles?

Miles: Yes.

Defense: Were you hurt, angry, depressed?

Miles: Yes I guess I was.

Defense: So it is not so unusual that Dr. Fitzpatrick was hurt?

Miles: I guess not.

Defense: Did you say you went on to do your Ph.D. Miss Miles?

Miles: Yes I am currently in my last year.

Defense: You appear to have finished your masters program in good time would you agree?

Miles: Yes just under two years.

Defense: And you got into a Ph.D. program. After the relationship ended he wrote you strong letters of recommendation and helped you out a great deal. As your graduate supervisor, I assume he wrote you letters of recommendation to get into a Ph.D. program , helped you through your Masters. Am I correct in that assumption Miss Miles?

Miles: Yes he did.

Defense: So Dr. Fitzpatrick didn't hinder your academic career after the relationship ended but actually helped you to pursue it by helping you graduate from the Masters program in record time and helping you get into the Ph.D. program.

Miles: Yes...I guess so.

Defense: Thank you Miss Miles.

Prosecution: Direct Examination/Witness 3.

Prosecution: Miss Taylor, can you explain the relationship you have with the complainant?

Taylor: Miss Phillips is a fellow colleague of mine in the masters program and we have also been friends since last September.

Prosecution: So how long have you known Miss Phillips?

Taylor: About 10 months.

Prosecution: Can you tell us what Miss Phillips said to you concerning her relationship with Dr. Fitzpatrick?

Taylor: Well she didn't say anything for the longest while but I could tell something was bothering her. She seemed very distracted. I have been her study partner since the beginning of the year and she seemed much more distracted in the second term. Finally she confided in me about the invitation to the cabin and how she felt she was being penalized because she didn't go .

Prosecution: Did she tell you that Dr. Fitzpatrick. was interested in her in a sexual way?

Taylor: Yes she did.

Prosecution: What did you say to Miss Phillips?

Taylor: Well I told her that if he was being vengeful that it was best for her to get out of the situation because he could cause more problems and it just wasn't worth it. Graduate school is hard enough as it is without all this other unnecessary pressure going on.

Prosecution: What did she finally do?

Taylor: She took my advice and quit. Good thing to because she is back to her old self again, confident, bright and as eager to graduate as the rest of us.

Prosecution: Thank you Miss Taylor.

Defense: Cross Examination/Witness 3

Defense: Your testimony appears to indicate that you feel you know Miss Phillips very well, you are familiar with her mood changes, and her change in confidence, is that correct?

Taylor: Yes I feel I do know Miss Phillips fairly well.

Defense: Miss Taylor, would you say that graduate students in general appear to be stressed and somewhat anxious? Is this an unusual behavior for students to exhibit?

Taylor: No being a graduate student is very stressful.

Defense: So before Miss Phillips told you about Dr. Fitzpatrick did you think her behavior was abnormal for a graduate student?

Taylor: Well not really.

Defense: Miss Taylor, you say you have been friends with Miss Phillips for 10 months?

Taylor: Yes, that's correct.

Defense: Did you and she spend any time together that wasn't university related?

Taylor: Well not really but we have spent countless hours doing university work.

Defense: So you really aren't that familiar with what goes on in her personal life?

Taylor: Well we've talked about each other's personal lives.

Defense: Miss Taylor, how many sisters does Miss Phillips have?

Taylor: Well, I think she had 2 sisters and 1 brother.

Defense: Actually she has 3 sisters and 1 brother. What does Miss Phillips like to do in her spare time?

Taylor: Um well I know she likes to read.

Defense: What kinds of books does she like to read?

Taylor: I'm not sure.

Defense: Does Miss Phillips have bouts of depression?

Taylor: I don't know.

Defense: In fact Miss Taylor you really don't know Miss Phillips very well at all. She is simply a colleague of yours. I find it very difficult to believe that YOU WOULD be familiar with her personality, mood swings and depression.

Defense: Miss Taylor did you ever go out socially with Dr. Fitzpatrick. and Miss Phillips?

Taylor: Well we went out in a small group after class every week.

Defense: Did you find that Dr. Fitzpatrick treated Miss Phillips any differently than any of the other students?

Taylor: No. Not really.

Defense: So on those occasions when you saw Miss Phillips and Dr. Fitzpatrick at the same function he did not treat her any differently than he treated any of his other graduate students?

Taylor: No.

Defense: Thank you Miss Taylor.

Defense: Direct examination/Witness 4.

Defense: Dr. Fitzpatrick, did you invite Miss Phillips to your cabin for a weekend?

Dr. Fitzpatrick: Yes I did invite Miss Phillips to my cabin for the weekend. I have been a professor here for 14 years and I have been inviting students up there for years. In fact, this is the first time anyone has ever complained. Students have been coming up to my cabin for years. I invite other faculty members as well. It's not a big deal. It's certainly not a method of luring students into a big seduction scenario as Miss Phillips has implied. It's absolutely ridiculous.

Defense: Miss Phillips has mentioned that you touched her on a number of different occasions, did you ever touch Miss Phillips?

Dr. Fitzpatrick: I probably did touch her arm or put my arm around her shoulder on occasion. I have done this on other occasions but no other student, female or male, has ever indicated it bothered them, and in fact neither did Miss Phillips. I didn't know it bothered her. She never said a word to me. Moreover, I can state emphatically that I never touched Miss Phillips in a sexual way or with sexual intent.

Defense: Miss Phillips said that after she declined to come to the cabin you treated her differently. Did you treat her differently after she declined to come to your cabin?

Dr. Fitzpatrick: Actually, I did find our relationship changed near the end of the term but not because she declined to come. Everyone knows that March and April are crazy months. I didn't spend as much time in the lab working with Miss Phillips. I left her on her own to do things. It turns out that in the absence of close supervision, she is not overly competent. Therefore without constant supervision her work lacked quality. I did have to remind her time and time again of details she had missed and warned her about her carelessness. Miss Phillips may have the potential to be a fine graduate student but she needs to work on becoming somewhat more independent and organized in her work.

Defense: Miss Phillips is complaining that her mark in your class went down at the end of the term. Did it go down?

Dr. Fitzpatrick: It did go down. On the midterm and the final her test scores were very poor. However she did not come to my posted office hours or extra tutorials to try and get extra help. I even asked if there was anything I could do after the midterm marks come back and she said she could handle it so I left her alone.

Defense: Miss Phillips received a grade of C on her last paper for your stats class. Why did you give Miss Phillips a C?

Dr. Fitzpatrick: Actually, I didn't. My teaching assistant, Miss Randall, gave her a C. Christina (Miss Randall) showed me her paper and I agreed with her marking. Miss Phillips' paper lacked any original ideas and her writing skills were atrocious. When Miss Phillips approached me with her grade I told her that .

Defense: Why do you think Miss Phillips is accusing you of sexual harassment?

Dr. Fitzpatrick: I think Miss Phillips is finding graduate school quite difficult. I think she is very confused and overwhelmed and that all she needs is some support and encouragement. This situation has gotten out of hand and is completely uncalled for.

Defense: Thank you, Dr. Fitzpatrick.

Prosecution: Cross Examination/Witness 5

Prosecution: Dr. Fitzpatrick. how long have you known Miss Phillips?

Dr. Fitzpatrick: For about a year now.

Prosecution: In what capacity do you know her?

Dr. Fitzpatrick: She is a graduate student in the department I work in. She was a student in a statistics course I taught from September to April and she was also my research assistant for eight months.

Prosecution: Did you ever date Miss Phillips?

Dr. Fitzpatrick: No sir I never dated Miss Phillips.

Prosecution: Dr. Fitzpatrick., have you ever dated any graduate students?

Dr. Fitzpatrick: Yes sir.

Prosecution: How many?

Dr. Fitzpatrick: A few.

Prosecution: You have dated a few graduate students?

Dr. Fitzpatrick: Yes sir.

Prosecution: How many of these students have you had sexual relations with Dr. Fitzpatrick?

Dr. Fitzpatrick: A couple.

Prosecution: Have you have slept with all the students you have dated?

Dr. Fitzpatrick: Yes sir.

Prosecution: How many of these students were your own graduate students, either in a course or in your lab?

Dr. Fitzpatrick: Two.

Prosecution: Two. You have had sexual relations with two of your own students?

Dr. Fitzpatrick: Yes sir...I have had sexual relations with two of my graduate students...both were mutually consenting adults.

Prosecution: Do you think it is acceptable for a professor to have sexual relationships with his graduate students?

Dr. F: If we are talking about consenting adults...I don't see a problem with it.

Prosecution: Now Dr. Fitzpatrick., in Miss Phillips testimony concerning the invitation to the cabin, she stated that you told her that you sensed a real sexual energy between the two of you. Did you say this?

Dr. Fitzpatrick: That is absolutely untrue. I never once propositioned Miss Phillips or told her any such thing. I have no interest in Miss Phillips other than a professional one.

Prosecution: But you did go out on social occasions and invite her to your cabin?

Dr. Fitzpatrick: Yes, but I do that with all my grad students. I am a very social person.

Prosecution: You've said you've invited many students to your cabin. Is that correct?

Dr. Fitzpatrick: Yes it is .

Prosecution: Do you invite males to your cabin as well?

Dr. Fitzpatrick: Yes I do...males and females.

Prosecution: Have you ever invited a female student to come to your cabin alone?

Dr. Fitzpatrick: Yes I have.

Prosecution: Have they gone?

Dr. Fitzpatrick: Yes they have.

Prosecution: How many of these female students have you had sex with at your cabin?

Dr. Fitzpatrick: A few.

Prosecution: How many is a few Dr. Fitzpatrick?

Dr. Fitzpatrick: Two.

Prosecution: How many female students have you had at your cabin?

Dr. Fitzpatrick: Oh, I don't know...20 maybe 30 over the years...yeah actually more like thirty.

Prosecution: And you have had sex with two of them?

Dr. Fitzpatrick: I have had sex with two of them and have not had sex with significantly more of them. Those sexual relationships I did have were between two consenting adults. There was never any form of harassment or force.

Prosecution: Dr. Fitzpatrick, did you ever have sex with Miss Phillips?

Dr. Fitzpatrick: No I have never had sex with Miss Phillips.

Prosecution: In her testimony, Miss Phillips revealed that you talked about some pretty intimate details of your days as a students, including your sexual activities and the sexual activities of the student population at the time. Did you talk about these things?

Dr. Fitzpatrick: It was a conversation in the lab, other students were around, we were discussing the change in sexual mores over the last thirty years.

Prosecution: Do you think that talking about sexual activity in a laboratory setting is a very professional thing to do?

Dr. Fitzpatrick: Well, I think that the issue of sexual activity is an interesting one and one that has been discussed in our lab among our students and on many social occasions. I think that anyone who is knowledgeable about social interactions knows that sexual activity is an accepted topic of conversation.

Prosecution: Thank you Dr. Fitzpatrick. That's all.

Defense: Direct Examination/Witness 5

Defense: Miss Rollins can you tell us the nature of your relationship with Dr. Fitzpatrick?

Rollins: He was my professor for my stats course and I am a Ph.D. student in his lab.

Defense: How long have you known Dr. Fitzpatrick?

Rollins: Well like I said I had him for a graduate stats course in 1990 and I entered his lab as a Ph.D. student in 1991. So I have known him for three years.

Defense: Has Dr. Fitzpatrick ever invited you to his cabin for the weekend?

Rollins: Oh yes on a number of different occasions. He is always inviting his graduate students up to his cabin.

Defense: Have you ever gone?

Rollins: Yes I have. I've been to his cabin three times.

Defense: Did you go alone or were other grad students with you?

Rollins: Well I went twice by myself and once with two other students.

Defense: What did you do at his cabin?

Rollins: Well he takes people on tours and basically we work. We come up with new ideas for research, discuss the current research and talk about conferences, funding stuff like that.

Defense: Has there ever been an occasion where Dr. Fitzpatrick has come on to you in a sexual way?

Rollins: No, there never has. Dr. Fitzpatrick is very professional. His cabin is not a den of lust like Miss Phillips implies.

Defense: Would you please explain the atmosphere in the lab?

Rollins: Actually it is the best lab situation I have ever been in. The students get along, help each other out and Dr. Fitzpatrick fosters a very close, comfortable relationship with his students. He never pulls rank or makes anyone feel less than anyone else. Although he is our advisor he treats us like his colleagues. I really respect Dr. Fitzpatrick and the situation he has set up for his grad students.

Defense: Has Dr. Fitzpatrick ever touched you?

Rollins: Well yes he has. He is a touchy person. But it doesn't bother me. Most of the time they are congratulatory pats or sympathetic pats.

Defense: Can you give us an example?

Rollins: Well...oh yeah about three weeks ago I had submitted a paper to a journal for publication. I was very upset when it came back as rejected. He comforted me by putting his arm around my shoulder. I felt he understood and he tried to make me feel better. Dr. Fitzpatrick. is a real trooper and he is always there when you need him.

Defense: Thank you Miss Rollins.

Prosecution: Cross Examination/Witness 5

Prosecution: Miss Rollins, do you know Miss Phillips?

Rollins: Yes I do. She worked in our lab for the past year.

Prosecution: What do you think of Miss Phillips?

Rollins: She seems nice. I don't know her that well because she keeps pretty much to herself.

Prosecution: Miss Rollins, you said that Dr. Fitzpatrick. never came on to you in a sexual way?

Rollins: Yes that is correct.

Prosecution: Have you ever had a sexual relationship with Dr. Fitzpatrick?

Rollins: No sir.

Prosecution: Miss Rollins, you are a Ph.D. student of Dr. Fitzpatrick's is this correct?

Rollins: Yes sir.

Prosecution: When do you expect to graduate?

Rollins: Next spring.

Prosecution: What do you plan to do when you graduate?

Rollins: I plan to pursue an academic career.

Prosecution: When you apply for academic positions you need good letters of recommendation isn't that so Miss Rollins?

Rollins: Yes sir.

Prosecution: Who usually writes those letters of recommendation?

Rollins: Usually your supervisor and other faculty members.

Prosecution: So have you started to apply for teaching positions?

Rollins: Yes sir I have.

Prosecution: Is Dr. Fitzpatrick writing recommendation letters for you?

Rollins: Yes sir he is.

Prosecution: So it is important that he have a favorable impression of you, wouldn't you say Miss Rollins?

Rollins: Yes sir.

Prosecution: Thank you Miss Rollins.

Defense: Direct Examination/Witness 6

Defense: Miss Randall, can you tell me how you know Dr. Fitzpatrick?

Randall: I was his teaching assistant for his graduate statistics course from September to April this year.

Defense: What do your duties involve?

Randall: I hold T.A. hours once a week for three hours and I mark papers and exams.

Defense: Do you mark all the papers and exams?

Randall: Yes. Dr. Fitzpatrick gives me a marking key and I mark them according to that key.

Defense: Are you familiar with Miss Phillips' work?

Randall: Yes. I have marked all of her exams and papers.

Defense: Can you describe her progress?

Randall: Her progress declined at the end of the last term. She went from an A- student to a C student.

Defense: Why did she end up a C student?

Randall: Well her work on her papers became very disorganized and incomplete. She missed whole questions.

Defense: Did you talk to Dr. Fitzpatrick about Miss Phillips' decline?

Randall: Yes. He was surprised but looked it over and had to agree with me.

Defense: Can you explain why she did so poorly the second term?

Randall: Well most students find the second term much more difficult as she did and she was not as careful as she was the first term. Her work became sloppy.

Defense: Thank you Miss Randall.

Prosecution: Cross Examination/Witness 6

Prosecution: Miss Randall, what was it like working for Dr. Fitzpatrick?

Randall: Well he is very demanding but he also shows a lot of confidence in my decisions and usually backs me up if a student doesn't agree with my marking.

Prosecution: Has Dr. Fitzpatrick ever pressured you to change a mark when you felt you were right?

Randall: No he hasn't.

Prosecution: Did he ever ask you to change Miss Phillips' marks?

Randall: No he never did.

Prosecution: You are going to be Dr. Fitzpatrick's t.a again this year aren't you Miss Randall?

Randall: Yes I am.

Prosecution: You are looking forward I'm sure to a good recommendation from him after you have t.a.'d for him, is that correct?

Randall: Yes I'm sure I will.

Prosecution: So it's important you maintain a good working relationship with Dr. Fitzpatrick is that correct?

Randall: Yes.

Prosecution: Thank you that's all.

Prosecution's Closing Statement:

The case you have heard today is a serious one. This case is looking at the issue of sexual harassment, yet another victimization of women. If we are to combat the problem of inequality for women, especially in our educational institutions, we cannot make light of this situation but give it our undivided attention and concern. Dr. Fitzpatrick, a psychology professor at this university, has been accused of sexual harassment by Miss Phillips. Miss Phillips has testified that Dr. Fitzpatrick touched her on a number of occasions in very sexual ways and often spoke with sexual innuendos to her. He propositioned her to come to his cabin for a weekend of sexual pleasure and when she refused he made her life very difficult. We have testimony from Miss Taylor that Miss Phillips was deeply disturbed about the situation with Dr. Fitzpatrick. We have an academic record that speaks of a decline in Miss Phillips work that can be attributed to Dr. Fitzpatrick's vengeful behavior.

It is very difficult to believe that a professor who studies human behavior would be so inept at judging his own behavior and the behavior he shows to his graduate students. However, this is more than an issue of bad behavior, this is an issue of power. Dr. Fitzpatrick tried to use his power, as a professor, to obtain a sexual relationship with Miss Phillips, a student. Faculty/student harassment is a real problem in the academic world. Students have a lot to lose by not succumbing to the pressures of professors to sleep with them. As evidenced here, students' psychological health is affected, including their confidence in themselves and their abilities, and indeed, their very academic career can be jeopardized. Professors assign grades and in many situations the marking of papers is totally subjective, they write recommendation letters and reference letters for funding and other employment and professors also have the power to present you in a positive or negative light in the department amongst other students and professors. Indeed, professors do have a lot of power and Dr. Fitzpatrick has abused his power as a professor. It is important that this university show that it will not tolerate sexual harassment of its students. The evidence is clear. Please send a clear message that sexual harassing behavior is not acceptable at this university.

3 of/de 3

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

PRECISION^{SM} RESOLUTION TARGETS

Defense Closing Statement:

My client, Dr. Harry Fitzpatrick is being accused of sexually harassing a graduate student at this university. This case is not about sexual relations between students and professors. This is about sexual harassment. Did Dr. Fitzpatrick sexually harass Miss Phillips? The prosecution has suggested that the evidence speaks for itself. Evidence? What evidence? The only evidence they have is the testimony of Miss Phillips. The same Miss Phillips who has admitted that she has been confused, insecure and anxious and how she has, on a number of different occasions misperceived the situation. She admits that she is not confident in her decision making. How can we be confident in her perceptions, decisions, indeed her testimony. She, herself, is not certain about her abilities to make coherent decisions based on her misperceptions.

Dr. Fitzpatrick is a kind, supportive professor who takes great interest in his students and has real enthusiasm for his research work. He compliments his students on their achievements and at the same time is quick to notice when they are not working to their full capabilities. He offers to help them with the pressures and difficulties of being a graduate student. He cares about his students and he is willing to go that extra mile with them even if that means working with students on weekends in the place where he seeks refuge from the noise and irritation of city living, that is his cabin. We've heard testimony from another student of Dr. Fitzpatrick's who testified that she too has been to Dr. Fitzpatrick's cabin. He has had numerous work weekends at his cabins with his graduate students. Dr. Fitzpatrick's offer to Miss Phillips is nothing unusual nor did it include a sexual invitation or intention. IT was simply another work weekend for Dr. Fitzpatrick and his research assistant.

As the year progressed, Dr. Fitzpatrick did give Miss Phillips more responsibility as she was familiar with the research they were doing and he became more involved in other projects. While Miss Phillips worked well with others she did not work well on her own. Miss Phillips did not handle responsibility well, her work suffered. Her lack of confidence was not a consequence of her poor performance but in fact was one of the causes of her poor performance. Dr. Fitzpatrick offered his help when he noticed the quality of her work decline but she refused his offers. A professor's hands are tied if a student will not seek out his/her help.

Dr. Fitzpatrick has claimed that he thinks Miss Phillips has the potential to have a successful academic career. However, the pressure of graduate

school coupled with the many commitments and deadlines that occur in the second term of the year, proved to be more than she could handle. It resulted in a decline in her marks. Miss Phillips admitted on a number of different occasions that there was too much work. She didn't attempt to do anything to help herself deal with the situation at the time. Now in retrospect she, like any good student, has tried to figure out what went wrong so it won't happen again. However, Miss Phillips has attributed her failings to someone else rather than taking the responsibility for herself...again.

Dr. Fitzpatrick has been a proud member of the Arts faculty at this university for 14 years. He too does not want this university to have the reputation that it condones sexual harassment. But in this case, sexual harassment did not occur. Punishing those who are innocent of sexual harassment is just as bad as not punishing those who are guilty of sexual harassment. Dr. Fitzpatrick is not guilty of sexual harassment.

Judge's Closing Statements

Members of the jury, you have heard all the arguments presented by both lawyers and are now required to come to a decision regarding the guilt or innocence of Dr. Fitzpatrick. To reiterate: Dr Fitzpatrick has been accused of sexual harassment by Sally Phillips.

The counsel for Dr. Fitzpatrick maintains that Dr. Fitzpatrick is not guilty of sexual harassment. They maintain that Miss Phillips has admitted that she has been confused, insecure, anxious and unable to make coherent decisions. They also suggest that if she is not confident in her perceptions and decisions, how can we be confident in her perceptions, decisions, indeed her testimony. The defense maintains Miss Phillips has attributed her failings in her first year of graduate school to someone else rather than taking the responsibility for her inability to handle the pressure. They conclude Miss Phillips readily admitted that she has misperceived situations in the past and this is no exception.

The counsel for the complainant, on the other hand, maintains that Dr. Fitzpatrick touched Miss Phillips on a number of occasions, spoke with sexual innuendos, propositioned her to come to his cabin for a weekend of sexual pleasure and when she refused he made her life very difficult. They also suggest that the decline in her academic work can be attributed to Dr. Fitzpatrick's vengeful behavior.

The jury members are reminded that in order to find Dr. Fitzpatrick guilty of sexual harassment, they must find that he violated the university's policy concerning sexual harassment.

To reiterate, the University Sexual Harassment Policy defines sexual harassment as

- (1) unwanted attention of a sexually oriented nature, made by a person who knows or ought reasonably to know that such attention is unwanted; and/or
- (2) an implied or expressed promise of reward for complying with or submitting to a sexually oriented request or advance; and/or
- (3) an implied or expressed threat of reprisal for not complying with or submitting to a sexually oriented request or advance

(4) unwanted behavior such as unwarranted touching, suggestive remarks, leering, compromising invitations, demands for sexual favours and sexual assault.

(5) engaging in a course of sexual comment or conduct that is known or ought reasonably be known to be unwelcome. It may take the form of excluding an individual or group from rights and/or privileges to which they are otherwise entitled.

(6) psychological, verbal or physical harassment. It is behavior prohibited by the University for all persons and circumstances over which the university has jurisdiction.

The requirement for onus and standard of proof in the application of these regulations shall be the "preponderance of evidence".

Preponderance of evidence is evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought out to be proved is more probable than not.

If after hearing all the evidence, you believe that there was a preponderance of evidence for the complaint of sexual harassment, you must find Dr. Fitzpatrick guilty of sexual harassment. If, on the other hand, you as a juror believe that preponderance of evidence is not present for the complaint of sexual harassment, you must find Dr. Fitzpatrick not guilty of sexual harassment.

Members of the jury--it is important that you carefully review all of the evidence that has been presented. You should think carefully about the testimony tht you have heard and make judgments as to the credibility of each witness. You may now converse among yourselves and discuss the evidence. The court will reconvene when you have unanimously reached one of the following decisions: guilty of sexual harassment or not guilty of sexual harassment.

Appendix I

Instruction Sheet:

The members are reminded that in order to find Dr. Fitzpatrick guilty of sexual harassment, they must find that he violated the university's policy concerning sexual harassment.

To reiterate, the University Sexual Harassment Policy defines sexual harassment as

- (1) unwanted attention of a sexually oriented nature, made by a person who knows or ought reasonably to know that such attention is unwanted; and/or
- (2) an implied or expressed promise of reward for complying with or submitting to a sexually oriented request or advance; and/or
- (3) an implied or expressed threat of reprisal for not complying with or submitting to a sexually oriented request or advance
- (4) unwanted behavior such as unwarranted touching, suggestive remarks, leering, compromising invitations, demands for sexual favours and sexual assault.
- (5) engaging in a course of sexual comment or conduct that is known or ought reasonably be known to be unwelcome. It may take the form of excluding an individual or group from rights and/or privileges to which they are otherwise entitled.
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Preponderance of evidence is evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought out to be proved is more probable than not.

If after hearing all the evidence, you believe that there was a preponderance of evidence for the complaint of sexual harassment, you

must find Dr. Fitzpatrick guilty of sexual harassment. If, on the other hand, you believe that preponderance of evidence is not present for the complaint of sexual harassment, you must find Dr. Fitzpatrick not guilty of sexual harassment.

Members of the committee--it is important that you carefully review all of the evidence that has been presented. You should think carefully about the testimony tht you have heard and make judgments as to the credibility of each witness. You may now converse among yourselves and discuss the evidence.

Appendix J

More Help if You Need It

Carleton University's *Sexual Harassment Policy* was developed to provide you with several options for dealing with a sexual harassment complaint.

Education

The *Sexual Harassment Policy* recognizes the importance of education in preventing and addressing sexual harassment. A Human Rights Educator is available to come into your classroom, department, residence or student group to facilitate a workshop on sexual harassment in particular, sexism in general or other human rights issues.

Please Call

Cindy Player
Human Rights Educator
Room 411, St. Patrick's Building
788-2600 ext. 3576

Advisory Services

Advisors on Sexual Harassment are available to provide confidential counselling and advice regarding what to do to resolve the situation. The advisors will be able to help you determine an appropriate course of action. Such actions may include counselling, writing a letter to the harasser, seeking mediation, or lodging a formal complaint.

Carleton University's advisors on sexual harassment are:

Nancy Adamson
Status of Women Co-ordinator
Room 446, St. Patrick's Building
788-5622

Irwin Gillespie
Department of Economics
Room B52, Loeb Building
788-2600 ext. 3763

Mediation

Mediation provides third-party support in a process of personal communication between the two parties until a mutually-agreeable solution is found. If you wish to initiate mediation, an adviser can help you prepare your complaint so that the respondent can be notified. If the respondent agrees that mediation is the most appropriate course of action, an adviser will assist you in finding a trained mediator(s). Parties to the mediation can be accompanied by a friend or colleague.

Formal Complaint

Formal allegations of sexual harassment by a student or employee must be made in writing and will be passed on to the appropriate Dean or Vice-President or to the University Librarian. The senior officer who has received the complaint will either refer the matter to the adviser, or launch an investigation. In the latter case, a three-person investigative committee will review the situation and prepare a report for the senior officer. Once the report has been received, the senior officer will meet separately with both parties to the complaint and will recommend: acceptance of the allegations and a proposed remedy in conjunction with the appropriate collective agreements or other agreements between the University and any party covered by this policy; dismissal of the allegations; or referral of the matter to the President.

Appeal procedures are available to both parties.

For further information
or a copy of *Carleton University's Sexual Harassment Policy*, please call:

Nancy Adamson
Status of Women Coordinator
Room 446, St. Patrick's Building
788-5622

too
CLOSE
for comfort?

WHAT STUDENTS
CAN DO
ABOUT SEXUAL
HARASSMENT

Carleton University

What is Sexual Harassment?

Sexual harassment violates fundamental rights, individual dignity and personal integrity and is not tolerated at Carleton University. The University's *Sexual Harassment Policy* defines sexual harassment as:

- unwanted attention of a sexually oriented nature, made by a person who knows or ought reasonably to know that such attention is unwelcome; and/or
- an implied or expressed promise of reward for complying with or submitting to a sexually oriented request or advance; and/or
- an implied or expressed threat of reprisal for not complying with or submitting to a sexually oriented request or advance.

Sexual harassment may include, but may not be limited to, behaviour such as:

- unwarranted touching;
- suggestive remarks or other verbal abuse in a sexual context;
- leering;
- compromising invitations;
- demands for sexual favours;
- sexual assault.

Sexual harassment may also include sexual comment or conduct that is known or ought reasonably to be known to be unwelcome. This form of sexual harassment may be based on gender or sexual orientation. It may take the form of excluding an individual or a group from rights and/or privileges to which they are otherwise entitled. This creates an intimidating, hostile or offensive working or learning environment.

Sexual harassment is not, for example:

- a relationship of mutual consent
- a hug between friends
- mutual flirtation

Sexual harassment can happen to anyone, female or male. Although women are most often sexually harassed by men, the reverse can occur. Same-sex harassment also occurs.

Students, staff and faculty can be either the victims or the perpetrators of sexual harassment. Sexual harassment can also occur between two students.

Examples of sexual harassment:

- A fellow student or professor hugs, pats or otherwise touches you in a sexual way that upsets you or makes you feel uncomfortable. As a result, you may think about dropping that course.
- An instructor promises you a better grade or academic opportunity in return for sexual favours or implies that your academic record will suffer if you refuse.
- Another student or staff-member persistently asks you out (despite your refusal), follows you, and won't leave you alone.
- Your professor persistently uses sexually-oriented language which you find offensive, demeaning and inappropriate in a learning environment.
- You have become involved in a sexual relationship with one of your instructors. You are thinking of ending the relationship but fear there may be academic consequences.

Students can be harassers

Although students are more frequently the victims of sexual harassment, they can also be harassers. You can avoid being accused of harassment by being sensitive to others' feelings and by listening carefully to what they say. Remember that sexist and homophobic language is offensive and try not to use it. Remember that physical contact you mean as friendly and affectionate may not seem that way to someone else. Remember that "no" means "no" and that persistent advances constitute harassment.

Ask yourself "if someone else were doing/saying this to me, how would I feel?"

If You Are Being Harassed

What you can do on your own:

- If you feel threatened physically, call Security at 4444.
- Refuse to blame yourself; someone else's behaviour is NOT your responsibility or fault.
- Don't pretend it isn't happening. It most likely will not go away.
- Write down what is happening. Carefully document the dates, times, locations, witnesses and details of all incidents.
- Tell the person as clearly, firmly and directly as you can that his or her behaviour is offensive and that you want it to stop immediately. This communication can be in person or through a letter.
- If saying 'no' does not stop the offensive behaviour, or if you cannot say 'no' because you fear the consequences (for your grades, references, a promotion), it is time to seek help.

Appendix K

Coding Instructions - Verdict Justifications

Timing of Complaint

Scored 1 if the respondent discussed the timing of the complaint as a factor in the decision.

Marks Received

Scored 1 if the respondent discussed whether the marks argument helped or hindered her case.

Evidence

Scored 1 if the respondent discussed lack of evidence or evidence in support of one side over the other.

Sexual Harassment Guidelines

Scored 1 if the respondent discussed university regulations, guidelines or definitions of sexual harassment.

Touching

Scored 1 if the respondent discussed touching, or patting, whether they believed the touching was sexual or whether they believed the touching was not sexual.

Witnesses

Scored 1 if the respondent discussed the testimony of the witnesses.

Personality of Dr. Fitzpatrick

Scored 1 if the respondent discussed his personality as touchy, feely, friendly, or sociable.

Dr. Fitzpatrick's Role as a Professor

Scored 1 if the respondent discussed Dr. Fitzpatrick's professionalism, status and authority as a professor, what he should do or ought known to have done as a professor.

History of Inviting Students to His Cabin

Scored 1 if the respondent discussed Dr. Fitzpatrick inviting students to his cabin positively or negatively.

History of Having Sexual Relationships with Students

Scored 1 if the respondent discussed Dr. Fitzpatrick's history of having sexual relationships with students positively or negatively.

Personality of Ms. Phillips

Scored 1 if the respondent discussed the personality of Ms. Phillips as having low self-esteem, not sure of herself, not comfortable in sexual situations, not like Dr. Fitzpatrick's personality.

Ms. Phillip's Response

Scored 1 if the respondent discussed Ms. Phillip's mild and non-aggressive response or her lack of response.

END

25-05-95

FIN