

STILL BROKEN

EXECUTIVE SUMMARY

SEXUAL HARASSMENT AND
MISCONDUCT IN THE LEGAL
PROFESSION A NATIONAL STUDY



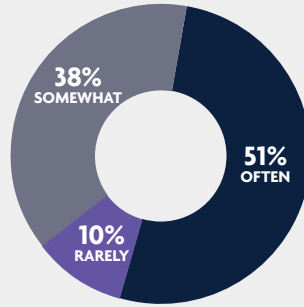
WOMEN LAWYERS ON GUARD

SURVEY AT A GLANCE*

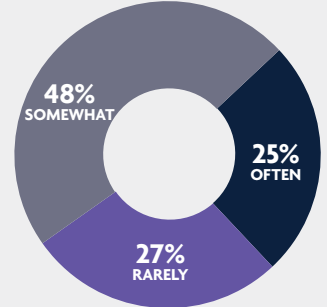
Women Lawyers On Guard's *Still Broken: Sexual Harassment and Misconduct in the Legal Profession*, a report on its national Survey, reflects significant, current evidence of sexual misconduct and harassment. The system of addressing sexual harassment in the legal profession is "still broken."

Culture

By Frequency of Harassment
30 Years Ago and Current



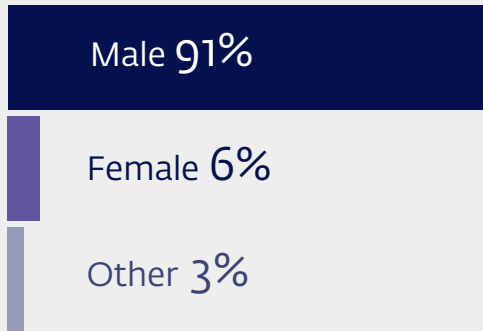
30 Yrs Ago



Current

Harasser

Gender



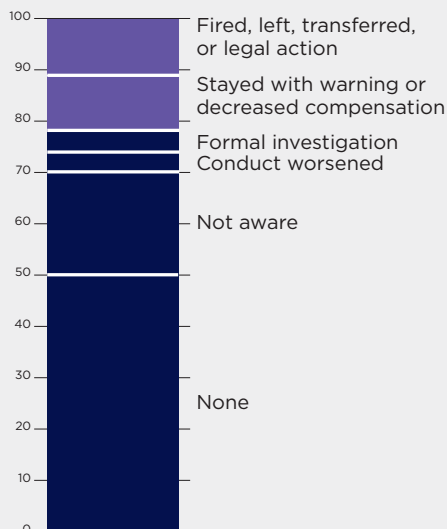
Respondents Direct Experience

By Gender



Harasser

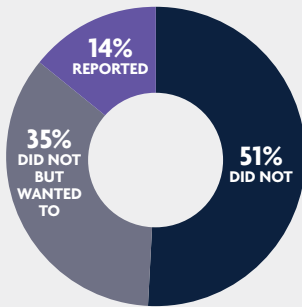
Consequences



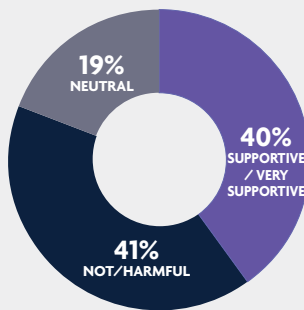
Culture
By Behavior
Current

Sexual Ridicule
Direct or Indirect Threats/Bribes
Sexualized Name-Calling
Displays of Explicit Materials
Unwanted Requests for Dates
Unwanted Communications of a Sexual Nature
Intrusive Sexually Explicit Questions
Offensive jokes
Stalking
Attractiveness Ratings
Sexual Sounds or Gestures
Ogling/Leering
Attempted or Actual Sexual Assault

Reporting
By Respondents
Current



Reporting
By Support Level
Current



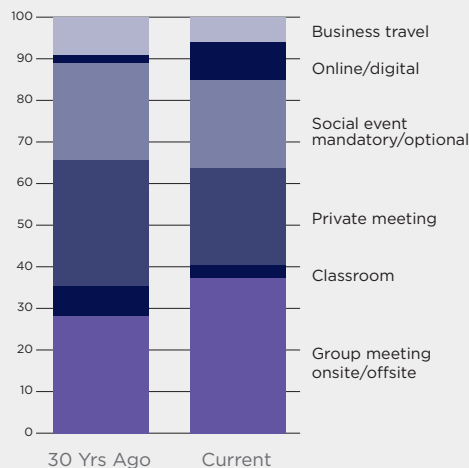
Reporting
Barriers
30 Years Ago and Current



Reporting
Impact on Respondents



Incidents
By Setting
30 Years Ago and Current



A brief discussion of the Survey's six most salient findings and its conclusion can be found in the Executive Summary. The Full Report is at this [link](#).

* For ease of presentation, all percentages in the Report have been rounded to the nearest whole number.

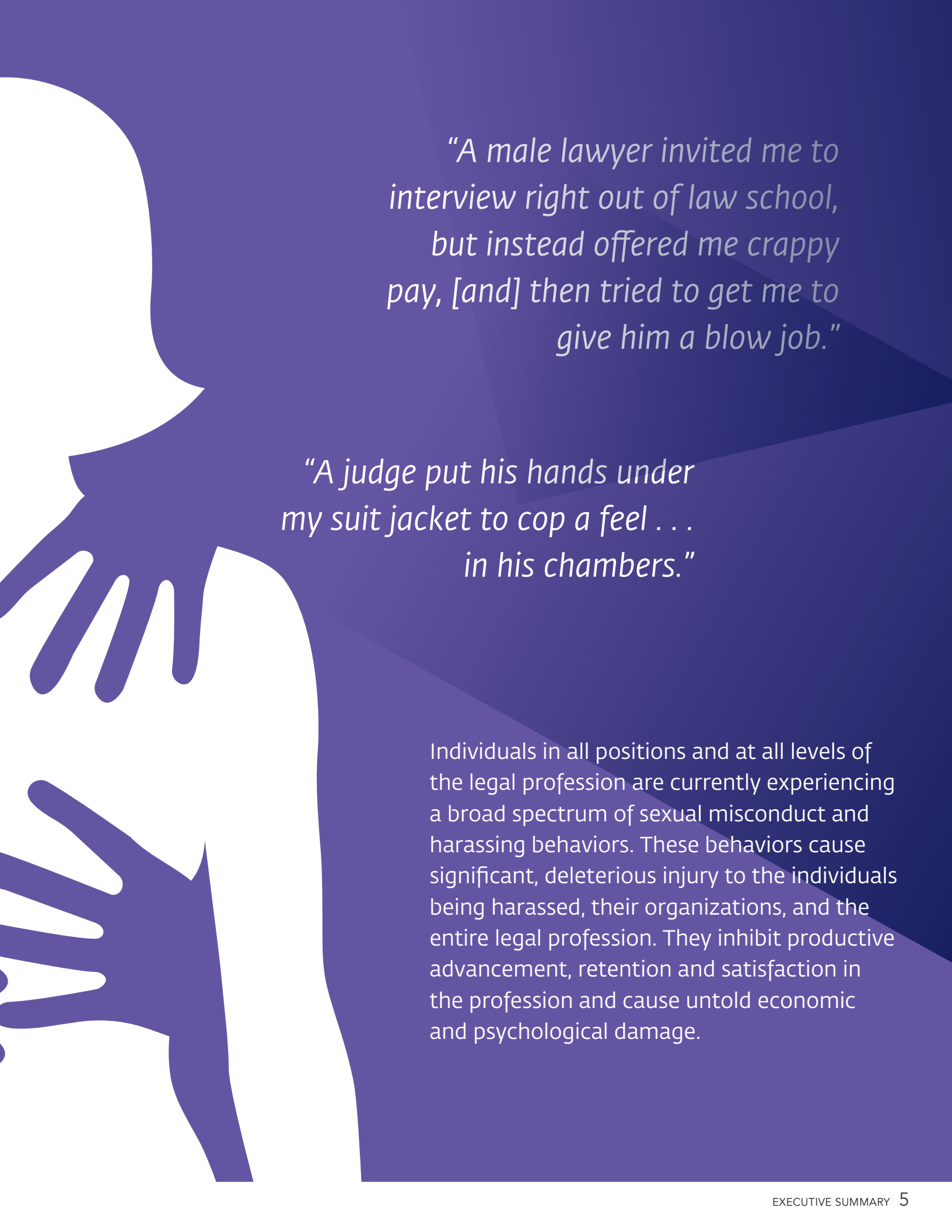
*“I was raped by a board member/
customer [of a non-profit], who was
allowed to voluntarily resign from
the board, but [he] faced no other
consequence and I am expected to
still deal with him.”*

EXECUTIVE SUMMARY*

In a nutshell, as revealed by the Women Lawyers On Guard (WLG) Survey on Sexual Misconduct and Harassment in the Legal Profession (Survey), the system of addressing sexual harassment in the legal profession is still broken and the goal of utilizing the full talents of everyone in the profession, particularly of women, will not be met until these flaws are acknowledged, understood and effectively addressed.

*For full report including Recommendations and additional quotes from respondents, go to www.womenlawyersonguard.org/still-broken/.





“A male lawyer invited me to interview right out of law school, but instead offered me crappy pay, [and] then tried to get me to give him a blow job.”

“A judge put his hands under my suit jacket to cop a feel . . . in his chambers.”

Individuals in all positions and at all levels of the legal profession are currently experiencing a broad spectrum of sexual misconduct and harassing behaviors. These behaviors cause significant, deleterious injury to the individuals being harassed, their organizations, and the entire legal profession. They inhibit productive advancement, retention and satisfaction in the profession and cause untold economic and psychological damage.

The Survey. In August of 2019, Women Lawyers On Guard, a national network of women and men that works to protect and defend equality, justice, and equal opportunity for all, completed a nationwide confidential Survey to determine the parameters and impact of sexual misconduct and harassment experienced by the legal profession. (Sexual Misconduct and Harassment is sometimes referred to collectively in this Report as “harassment” or “sexual harassment.”)

Behavior, Not Prevalence, Was Measured. The purpose of the Survey was *not* to measure the magnitude or prevalence of sexual harassment in the legal profession (*e.g.*, x% of respondents have been harassed), as this has been well documented by others. *Rather, the Survey’s purpose was to dig deeper into the experiences of those who have been harassed.* In doing so, WLG hoped to provide a clearer picture of harassing behaviors and the consequences to the individuals, the organizations and the profession.

“[L]aw firms say they have a “no jerks” policy, but this policy doesn’t apply when that partner brings in a lot of money.”

Spectrum of Sexual Misconduct and Harassing Behaviors Examined. *The Survey examined a broad spectrum of behaviors from offensive jokes about sex or gender, to rating of one’s sexuality or sexualized name calling (bitch, whore, slut) to stalking and physical, sexual assault.* While some of the incidents reported in the Survey might not have risen to the level of “legally actionable” sexual harassment, they nevertheless still result in fear, extreme discomfort, sidelining, loss of productivity and advancement opportunities for the individual, and have a significant negative impact on the morale, reputation and productivity of the organization.

Additional Questions Explored. The Survey was also designed to capture the

contexts, circumstances, and aftermath of sexual harassment across legal employment practice settings and locations. The Survey asked a series of questions designed to reveal the details of these situations, including the relative hierarchical positions of the harasser and the harassed (including harassment by clients), the practice settings in which the behavior occurred, whether it occurred in group settings or in private, and the context of those settings (business travel, in- or out-of-office meetings, social business events, etc.). The Survey also specifically asked: If the incidents were not reported to employers, why not?

The Survey also examined the consequences to both women and men who were targets of, or witnessed firsthand, unwanted sexual behaviors, as well as the consequences to the persons doing the harassing.

Changes Over Time. For further context, many questions asked the respondents to categorize the time frames in which the harassment (or the response to that particular question) occurred, in five to ten-year increments going back 30 years or more. *Knowing when incidents occurred enabled WLG to parse current from past conduct and, in certain circumstances, analyze changes over time.*

Dissemination of the Survey; Respondent Demographics. WLG disseminated the confidential Survey nationwide through many different channels, including bar associations and their memberships, online groups and individuals’ networks. WLG directed it to and garnered responses from both lawyers and non-lawyers (who worked with lawyers) in private practice, the government, in-house, the judiciary, associations, non-profits, and law schools. Of the more than 2120 people who responded to the Survey, 92% identified as female and 7% as male (less than 1% preferred to self-describe or not to answer this question). The distribution of race and ethnicities paralleled that of lawyers in the legal profession and the age of respondents fell within a “bell curve.”

THE SURVEY'S SIX MOST SALIENT FINDINGS

The Extent and Breadth of Misconduct/Harassment Are Insidious and Alarming.

A broad spectrum of sexual misconduct and harassing behaviors—from criminal to civilly actionable to simply unconscionable—continues to plague all walks of the legal profession. This situation exists notwithstanding concerted efforts of employers to provide sexual harassment policies and training. In fact, sexual harassment by partners and supervising attorneys does not appear to have abated in the last 30 years. And, **in many workplaces, harassment remains embedded within the**

culture. Harassment by clients and opposing counsel also occurs and is particularly disturbing, given the difficulty of addressing these situations. Despite these findings, in the course of preparing the Survey, WLG heard many anecdotal comments from lawyers who thought that harassing behaviors were a thing of the past. While it is possible that these people are just not experiencing or hearing about this behavior and therefore do not believe that it still exists, the Survey demonstrates otherwise.

Reporting Systems Intended to Discourage and Capture Harassing Incidents Are Mostly Not Working.

Most people do not report sexual harassment and very significant barriers to reporting still exist. **Reasons for not reporting have remained stubbornly consistent over the last 30 years,** including fear of job loss and other negative career repercussions, concerns about safety, the person to report to is the harasser, and doubts about whether reports will be believed. When the people harassed reported the behaviors, there was almost an equal chance they would encounter non-supportive or harmful reactions, rather than supportive ones, from these reporting channels.

“ . . . I was worried I would be blamed for somehow provoking or encouraging the behavior . . . I didn't want to be perceived as unfriendly so I didn't feel comfortable being more assertive against the harasser. He was later fired for sexually assaulting a summer associate, and I wish I had reported him earlier because the later incident may have been prevented.”

Most Harassers Face Few to No Adverse Consequences.

Half of respondents reported that there were no consequences to the harasser even after they reported the incidents. Many more did not know if their harasser faced any consequences because the employers did not inform the respondents of any. **For some respondents, the conduct got worse;** the harassers often continued to work with (and some continued to harass) those they targeted. The most prevalent

consequence reported by respondents was that managers gave the harassers written or verbal warnings, but this happened in only a small percentage of the situations. While respondents often faced significant consequences for years after the harassment, harassers often were promoted or given additional managerial responsibilities and suffered few or no negative consequences (financial or otherwise) for the harassment.

The “Price” That Women, in Particular, Pay and the Cost to Organizations and the Profession Are Considerable.

The real and lasting consequences to those who have been harassed have been largely a silent story. Respondents believed their careers and personal sense of well-being had been negatively impacted (often significantly and sometimes with lasting economic consequences) whether they reported or not. They experienced anxiety about their careers and well-being; feared retaliation; and lost productivity.

“My career as I knew it was destroyed by sexual harassment. I suffered the loss of my job . . . It took me two decades to recover . . . Nothing happened to my harasser; he continued in his high-level position.”

The Survey also revealed “collateral victims,” those left behind without work when a harasser was asked to leave and took

their client base with them. The quotes from respondents focused a light on these experiences and situations and also crystallized the business imperative of sexual harassment to the organization: workplace disruption, loss of productivity, and damage to the organization’s reputation and morale.

The impact on those harassed—and the fallout on those who remain behind, as well as to the organization—appears to be much more consequential, profound, and debilitating than the consequences to the harassers.

“ . . . no one realized the damage that it was doing to women, or the repression it caused in their careers . . . Women or men should be encouraged to speak up and should expect that proper action will be taken to address the wrongs.”

People at Every Level—Including Women in Powerful Positions—Are Being Harassed.

Not surprisingly, associates, staff attorneys, law students, and people in less “powerful” positions are still being harassed. **More surprisingly, women judges, law partners, general counsels, and law professors reported that they are also currently being harassed.** Senior

70+ year-old lawyers, even today, are on the receiving end of unwanted sexual misconduct and harassment. Similarly, very senior non-attorneys (such as CEOs and Managing Directors) reported being subject to harassment.

Age, Race/Ethnicity and Gender Identity Are Perceived as Compounding Dimensions.

A significant percentage of respondents believed that their age was an additional and compounding dimension to the incidents they experienced. Although reported less frequently, race/ethnicity were also perceived as significant factors affecting

their experiences. Additionally, respondents perceived that their sexual orientation or gender identity, and to a lesser degree, religion, contributed as a dimension in the situation.

CONCLUSION

Fifty-five years after Title VII of the Civil Rights Act was enacted, and after at least 30 years of creating and deploying policies, procedures and training programs to address the problem of sexual harassment, people are still being harassed, still fear reporting and retaliation, remain unsure to whom to report, and/or believe that reporting will not end the harassment. **The results of this Survey lead to the inescapable conclusion that the system for addressing sexual harassment in the legal profession is still broken.**

Survey responses show that sexual harassment and misconduct are widespread throughout the legal profession, targeting women (and sometimes men) of all ages and at all career stages, from law student to law firm partner, from intern/clerk to judge, from staff to senior or general counsel. **The Survey demonstrates that this misconduct and harassment is sapping individual productivity and adversely impacting organizational economics at the very least, and destroying careers and organizations' productivity, at the worst.** Given the breadth and magnitude of the incidents reported in the Survey, the legal profession and society at large have much work to do.

In light of the leadership role of lawyers in society and lawyers' awareness of and responsibility to uphold the rule of law, the persistence of this conduct after more than 30 years of attempts to address it, and the failure to deal with its consequences, are unacceptable.

The legal profession did not create this problem—it is ubiquitous in our society. But it is perpetuating it. The profession needs to educate, create more effective policies and reporting structures, ensure adequate enforcement, proactively ferret out existing problems and toxic cultures, and

address, discourage and disrupt harassment before it reaches the level of impact.

Written policies, “check the box” training programs, and anemic reporting systems may comply with the law but they are not enough to root out long-standing, ingrained patterns of behavior and lack of accountability.

In particular, the profession should initiate deeper and more honest conversations with leaders of organizations, early childhood educators, parents, consultants and lawyers—men and women—in every position within the profession. It should craft new policies and enforcement mechanisms to remove the biggest obstacles in the current system: difficulty in reporting incidents and lack of support for those who do, the absence of transparency and effective consequences to the harassers, and the failure to ensure that both men and women have sufficient understanding, education and training to deal with the situation when it occurs. It is long past time for the harassers to experience appropriate and transparent consequences for their harmful behavior and for those who speak out to be supported, not suppressed.

The time for action is now. We can and must do better.

“Ultimately, this is all about power and respect (or lack thereof) in the workplace . . . [T]he powerful still protect each other . . . there is still enormous pressure not to challenge the powerful. I believe that we still have a long way to go in terms of changing mindsets in the legal profession.”

TAKE ACTION

ONE RESPONDENT URGED US:

“Keep pursuing the work of this survey so change can happen.”

HERE'S HOW YOU CAN BE PART OF THE CHANGE, TOO.



JOIN US

No fee to join, we need your support, and we only communicate when we have something important to tell you. [JOIN HERE](#)



DONATE: SUPPORT WLG'S NEXT INITIATIVE

By donating to WLG you will be supporting “Conversations With Men” our next initiative aimed at finding pathways to create more ethical, safe and productive work environments for everyone. [DONATE HERE.](#)

“Conversations With Men” Professionally facilitated small group conversations about practicing law in the #MeToo era. The goal: to empower men (and women) to have professional relationships at work without harassment or bullying. Discussions will include, for example, fear of false accusations, confusion about appropriate behavior, bystander action, and the backlash against mentoring and working with women.



SHARE THIS REPORT WIDELY

Downloadable digital versions are available at www.womenlawyersonguard.org/still-broken/. There are 2 versions: 1) an abbreviated version that includes SURVEY AT A GLANCE, EXECUTIVE SUMMARY, and TAKE ACTION or 2) a full report that includes the abbreviated version and full report together. [SHARE HERE.](#)



VOLUNTEER

We are a volunteer-driven organization and currently are seeking assistance with grant proposals and our website. If you are passionate about our initiatives and are looking to be part of the change needed in our profession, send an email to camron@womenlawyersonguard.org and let us now how you would like to support WLG.



RESOURCES

National Women's Law Center/Time's Up Legal Defense Fund:
www.nwlc.org/times-up-legal-defense-fund/

National Partnership for Women and Families:
www.nationalpartnership.org/our-work/economic-justice/sexual-harassment.html

EEOC: www.eeoc.gov/laws/types/sexual_harassment.cfm

The Purple Campaign: www.purplecampaign.org



RECOMMENDATIONS

The focus of this Report is on the results of the Survey. Volumes could be (and have been) written on what can and should be done to address sexual harassment in the legal profession. But the time for just writing has passed and WLG hopes that the legal profession will use this Report to:

- Seek better understanding of the nature and origin of problem behaviors and their consequences to individuals and organizations through frank and nuanced conversations;
- Develop more tailored and effective strategies to address and prevent sexual harassment in the future;
- Identify vulnerabilities in organizational practices and problem cultures (including those that create or maintain power imbalance) and implement change;
- Create concrete intervention structures; and
- Identify and implement more effective reporting and accountability tools.

Each of these concepts can be unpacked and implemented in numerous effective ways at all levels and in all settings. WLG and others have identified robust recommendations and best practices to address sexual harassment in the legal profession, and WLG strongly suggests that they be put into practice.

ACKNOWLEDGMENTS

WLG extends special thanks to the following organizations and individuals for their assistance in this significant research initiative for the legal profession:

- **The Respondents**
- **Nextions LLC:** Dr. Arin Reeves, Esq. President and Lead Researcher and staff.
- **American University Washington College of Law:** Billie Jo Kaufman, retired Associate Dean of the Law Library; Bryan Rapp, head of the IT Department; and Babak Zarin, AU student
- **The Boards of Directors of WLG and Women Lawyers On Guard Action Network, Inc.**
- **JS Plank & DM DiCarlo Family Foundation**
- **Disseminators of the Survey:** Members and Friends of WLG and the following organizations*

State and Local Bar Associations (alphabetical by state)

Women Lawyers Section–Birmingham Bar Association

Anchorage Association of Women Lawyers

Arizona Women Lawyers Association

Lawyers Club of San Diego

Women Lawyers of Sacramento

California Women Lawyers

Florida Association for Women Lawyers

Hawaii Women Lawyers

Idaho Women Lawyers

Women's Bar Association of Illinois

Polk County (Iowa) Women Attorneys

Kansas Women Attorneys Association

Wichita Women Attorneys Association

Women Lawyers Association of Jefferson County (Kentucky)

Women's Bar Association of Massachusetts

Women Lawyers Association of Michigan

Minnesota Women Lawyers

Mississippi Women Lawyers Association

Northern Nevada Women Lawyers Association

New Hampshire Women's Bar Association

Women in Law Section, New York State Bar Association

New York City Recruitment Association (NYCRA)

North Carolina Association of Women Attorneys

Ohio Women's Bar Association

Rhode Island Women's Bar Association

South Carolina Women Lawyers Association

Young Lawyers Section; State Bar of South Dakota

Houston Association of Women Lawyers

Texas Women Lawyers

Women Lawyers of Utah

Washington Women Lawyers

Washington State Supreme Court Gender and Justice Commission

Association for Women Lawyers (Wisconsin)

Women's Bar Association of the District of Columbia

Hispanic Bar Association–District of Columbia

National Groups

ALPS

Boss Lady, Esq.

Empowering Women in Law Leadership

Fearless Women's Network

Girl Attorney

International Bar Association

JAMS

Law Mamas

Law School Memes for Edgy T14s

Lawyer Moms of America

Military Spouse JD Network

Mothers Esquire

Ms. Esquire

National Association for Law Placement (NALP)

National Association of Women Judges

National Association of Women Lawyers

National Bar Association

National Conference of Women's Bar Associations

National Personal Injury Lawyers Association

Perfectly Paralegal

Professional Development Consortium

The Purple Campaign

Women in Law—UTexas List Serve

Women Owned Law

*If other organizations also sent the Survey to their members/networks, thank you! and please send an email to camron@womenlawyersonguard.org to be added to our list.

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Women Lawyers On Guard Inc. (WLG), a 501 (c)(3) tax-exempt organization, is a national network of women and men harnessing the power of the law to protect and defend equality, justice and equal opportunity for all. We match volunteers with the legal needs of other non-profits that share our mission, sign onto amicus briefs, and work to address sexual misconduct and harassment, women's health, gender pay equity, and other salient issues in the legal profession or impacting women and families.

Women Lawyers On Guard Action Network, Inc., a 501 (c)(4) tax-exempt organization, actively advocates in support of its mission, particularly on issues impacting women, lawyers and families.

Nextions LLC is a leading consulting and research firm for innovative leadership and inclusion solutions in the workplace. It develops presentations, workshops, and keynote addresses using cutting edge research developed in-house, as well as research produced through other organizations, providing a unique experience that is tailored to each organization's particular needs.

***Dedicated to those persons who have spoken up,
those who can't, those who have endured,
and those who are enduring.***

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***“It’s not just a
women’s issue.”***

