Update on Sexual Harassment in the Federal Workplace

March 2018

Introduction

This research brief summarizes Federal employee perceptions of sexual harassment in the workplace, based on MSPB's 2016 Merit Principles Survey (MPS) and previous MSPB surveys. Agencies have a responsibility to take steps to eliminate sexual harassment, because it is both illegal and harmful to employee productivity, satisfaction, and retention.

Background

In 1979, a subcommittee of the U.S. House of Representatives asked MSPB, which has the statutory responsibility to evaluate adherence to the Federal merit system principles and avoidance of prohibited personnel practices, to conduct a thorough and scientific study on the prevalence of sexual harassment among Federal employees. In March 1981, MSPB issued the report *Sexual Harassment in the Federal Workplace: Is It a Problem?* and published follow up reports in 1988 and 1995.

Although some stakeholders might have assumed that sexual harassment had decreased to the point that it no longer warranted focused leadership attention or further research, sexual harassment continues to be a problem for both Federal employees and Federal agencies. Therefore, in 2015, MSPB included an update on sexual harassment in its Research Agenda for 2015-2018.

Research Approach

When MSPB conducted its first study of sexual harassment in 1981, there was little published research or data available. Accordingly, MSPB staff conducted independent research and consulted with experts to craft a detailed survey to measure Federal employees' views of and experiences with sexual harassment. That survey has provided baseline data and served as a model for subsequent research into sexual harassment.

To permit comparison over time, the MPS 2016 repeated numerous items from the preceding surveys (with revision to reflect new possibilities such as harassment though text messaging or social media). The survey also included new items to reflect a contemporary understanding of sexual harassment.

Sexual harassment may involve sexual coercion or behaviors that create a hostile work environment, such as unwanted sexual attention, as well as harassment based on sex or gender.

What is Sexual Harassment?

From a legal perspective, the U.S. Equal Employment Opportunity Commission notes that sexual harassment is a type of discrimination based on sex and therefore, a violation of Title VII of the Civil Rights Act of 1964.[1] Sexual harassment occurs when: (1) acceptance of the harassment is required (explicitly or implicitly) for continued employment; (2) acceptance or rejection of the harassment by an individual impacts his/her treatment by the harasser; or (3) the harassment unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment for the target of the harassment or other observers.[2] Harassment may also include behaviors that are not overtly sexual in nature, but that reflect disparaging attitudes based on sex or gender.

[1] U.S. Equal Employment Opportunity Commission, https://www.eeoc.gov/eeoc/publications/fs-sex.cfm.

[2] Paraphrased from 29 C.F.R. §1604.11.

MSPB's 2016 survey covered a range of sexual harassment behaviors from an employee perspective, as displayed in **Table 1**. These behaviors are grouped into three broad categories—[3]

- **Gender Harassment**: Unwelcome behaviors that disparage or objectify others based on their sex or gender;
- **Unwanted Sexual Attention**: Unwelcome behaviors of a sexual nature that are directed toward a person; and
- **Sexual Coercion**: Pressure or force to engage in sexual behavior.

Table 1. Types of Sexual Harassment Behaviors Included on 1994 and 2016 Surveys[4]

Gender Harassment Unwelcome behaviors that disparage or objectify others based on their sex or gender
• Derogatory or unprofessional terms related to sex or gender • Unwelcome sexual teasing, jokes, comments or questions* • Exposure to sexually oriented material (e.g., photos, videos, written material) • Exposure to sexually oriented conversations
Unwanted Sexual Attention Unwelcome behaviors of a sexual nature that are directed toward a person
• Unwelcome invasion of personal space (e.g., touching, crowding, leaning over)* • Unwelcome communications (e.g., emails, phone calls, notes, text messages, social media contacts) of a sexual nature* • Unwelcome sexually suggestive looks or gestures*
Sexual Coercion Pressure or force to engage in sexual behavior
• Offer of preferential treatment in the workplace in exchange for sexual favors (*quid pro quo*) • Pressure for sexual favors* • Pressure for dates* • Stalking (e.g., unwanted physical or electronic intrusion into your personal life)* • Sexual assault or attempted sexual assault*

The behaviors listed above were intended to provide survey respondents with concrete examples of behaviors that are potentially indicative of sexual harassment; the list is neither exhaustive nor legally definitive.[5]

Understanding What Constitutes Sexual Harassment

On the MPS 2016, MSPB asked respondents to indicate whether they considered each of the 12 behaviors (as listed in **Table 1**) to be sexual harassment. As shown in **Table 2**, for each behavior, the vast majority of employees agreed that these behaviors constituted sexual harassment. The behaviors with less consensus may be more likely to lead to workplace conflict, because one person may view the behavior as innocuous while others view it as sexual harassment.

[3] These categories are based on the results of a statistical technique called factor analysis, which groups similar items based on patterns of response.

[4] Items followed by an asterisk (*) were included on both the 1994 and 2016 surveys.

[5] The determination of whether a particular behavior constitutes sexual harassment within the meaning of antidiscrimination law (e.g., Title VII) depends upon the behavior's circumstances and the context. Therefore, this list should not be construed as identifying behaviors that necessarily meet the legal criteria for sexual harassment or sex discrimination.

Table 2. Percentage of Respondents Who Agree That the Behavior Is Sexual Harassment

Sexual Coercion	Total	Men	Women
Pressure for sexual favors	96%	97%	96%
Offer of preferential treatment for sexual favors	96%	96%	96%
Stalking (unwanted intrusion into your personal life)	95%	95%	94%
Sexual assault or attempted sexual assault	95%	96%	94%
Pressure for dates	94%	94%	94%

Unwanted Sexual Attention	Total	Men	Women
Unwelcome communications of a sexual nature	94%	94%	94%
Unwelcome sexually suggestive looks or gestures	92%	92%	93%
Unwelcome invasion of personal space	90%	90%	90%

Gender Harassment	Total	Men	Women
Unwelcome sexual teasing, jokes, comments or questions	94%	94%	95%
Derogatory or unprofessional terms related to sex or gender	92%	92%	93%
Exposure to sexually oriented material	89%	89%	90%
Exposure to sexually oriented conversations	82%	83%	80%

The vast majority of men and women agree that these behaviors constitute sexual harassment.

Compared to 1994,[6] the overall rate of agreement was higher (more people considered each of the behaviors to be sexual harassment), and the differences between women and men decreased (largely because more men now agree that each behavior is sexual harassment). These changes indicate that most Federal employees, regardless of sex, now understand that certain behaviors are inappropriate in the workplace. Nevertheless, such understanding does not necessarily mean that all employees will refrain from inappropriate behavior, or recognize it in themselves.

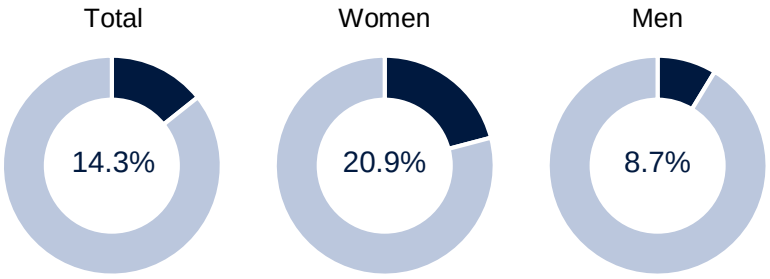
Prevalence of Sexual Harassment

Approximately 1 in 7 Federal employees experienced one or more of the sexual harassment behaviors during the preceding 2 years, as illustrated in **Figure 1**. Women were more than twice as likely as men to experience sexual harassment.[7]

[6] The comparable items on MSPB's 1994 survey covered only six behaviors (i.e., unwelcome communications, invasion of personal space, looks or gestures, pressure for sexual favors, pressure for dates, and sexual teasing, jokes, comments or questions). The 1994 survey also distinguished between whether the respondent considered the behavior to be sexual harassment if done by a supervisor or a coworker. The MPS 2016 covered all 12 behaviors and did not distinguish between potential sources of the harassment.

[7] For brevity, we characterize an employee who responded that they experienced any listed behaviors as having "experienced harassment." However, we note that the survey data reflect employees' perceptions of their experiences, which may or may not meet the legal criteria for harassment.

Figure 1. Employees Experiencing Sexual Harassment in the Previous 2 Years, 2016



Although sexual harassment of both men and women has decreased, women remain much more likely than men to experience harassment.

In MSPB's 1980, 1987, and 1994 surveys, the percentages of men and women who had experienced sexual harassment remained surprisingly stable, despite efforts to eliminate sexual harassment from Federal workplaces. MSPB attributed this, in part, to increases in employee awareness of what behaviors constitute sexual harassment outpacing improvements in employee conduct and workplace culture (such as universal understanding that sexual harassment is misconduct that should not be tolerated). In contrast, as shown in **Table 3**, the MPS 2016 results show that the percentage of Federal employees who experienced sexual harassment has decreased since 1994.

Table 3. Percentage of Employees Experiencing Sexual Harassment, 1994 and 2016

Year	Measure of Sexual Harassment	Employees	
		Women	Men
1994	Experienced any of 8 behaviors	44.3%	19.1%
2016	Experienced any of 8 behaviors	17.7%	5.5%
	Experienced any of 12 behaviors	20.9%	8.7%

Notably, the percentage of employees who experienced any of 12 behaviors in 2016 was lower than the percentage of employees who experienced any of 8 behaviors (a subset of the 12) in 1994.[8] Nevertheless, approximately 1 out of 5 female Federal employees and approximately 1 out of 11 male Federal employees experienced any type of sexual harassment during the previous 2 years.

The percentages shown in **Figure 1** represent Government-wide averages. Averaging results across Federal agencies with different rates of sexual harassment can obscure substantial and important agency differences. **Figure 2** displays the percentages of men and women within each Department or large agency who have experienced sexual harassment within the past two years compared to the Government-wide average of 20.9 percent of women and 8.7 percent of men. A review of these agency-level results reveals that organizations vary in terms of the likelihood that women and/or men will experience harassment.

[8] All subsequent survey results to be discussed in this research brief will be based on all 12 sexual harassment behaviors that were covered on the MPS 2016.

Figure 2. Percentage of Employees Experiencing Sexual Harassment, by Agency

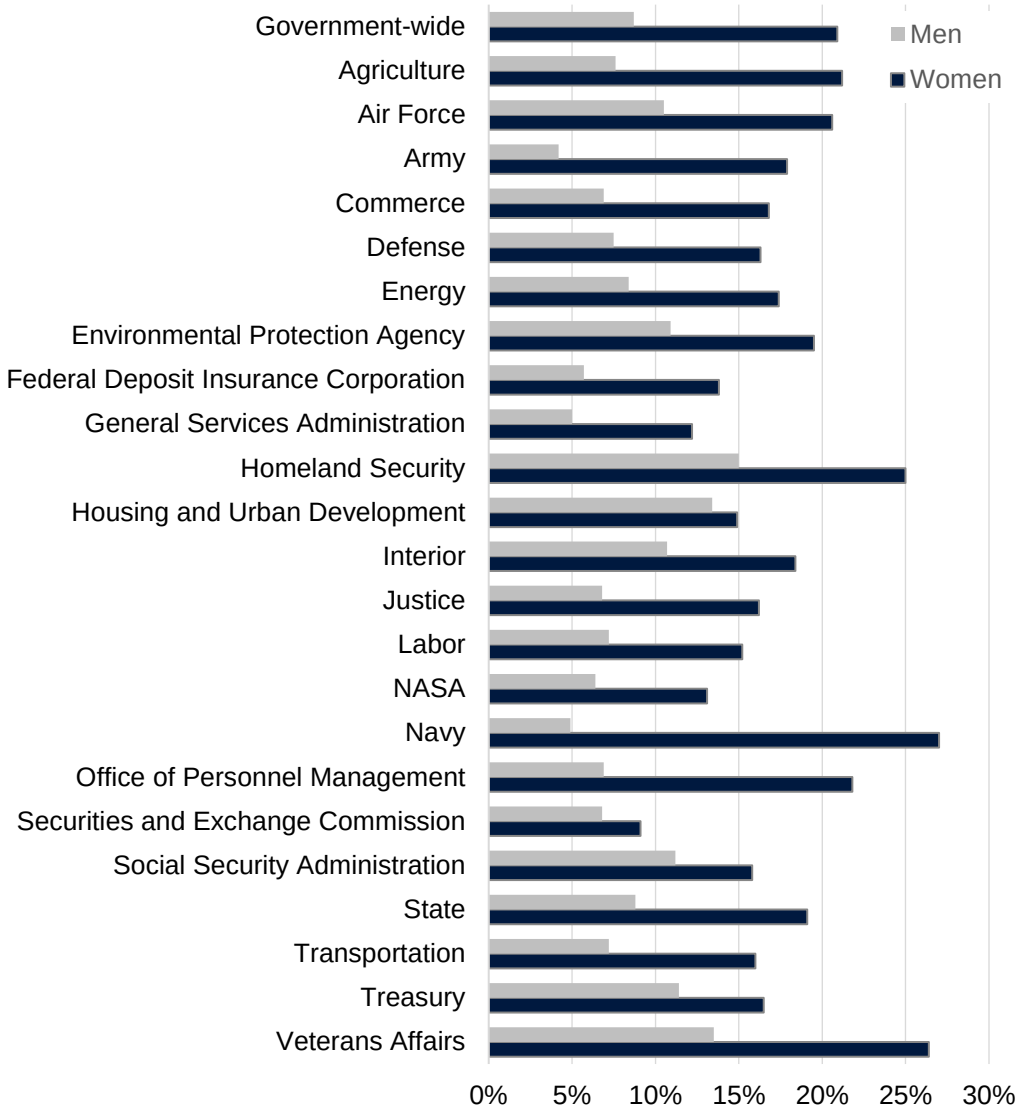


Table 4 demonstrates that women are more likely than men to experience every sexual harassment behavior included on the survey. In particular, the greatest disparity exists for behaviors that reflect unwanted sexual attention—behaviors such as unwelcome sexually suggestive looks or gestures; unwelcome invasion of personal space; and unwelcome communications of a sexual nature.

Table 4. Percentage of Employees Experiencing Sexual Harassment within the Previous Two Years, by Type of Behavior[9]

Behavior	Total	Women	Men	Ratio Women : Men
Any Type of Sexual Harassment Behavior	14.3%	20.9%	8.7%	2.4 : 1
Gender Harassment	**Total**	**Women**	**Men**	**Ratio**
Exposure to sexually oriented conversations	7.3%	9.5%	5.4%	1.8 : 1
Unwelcome sexual teasing, jokes, comments, or questions	5.9%	9.4%	2.9%	3.2 : 1
Derogatory or unprofessional terms related to sex or gender	5.0%	7.1%	3.0%	2.4 : 1
Exposure to sexually oriented material	2.8%	3.6%	2.0%	1.8 : 1
Unwanted Sexual Attention	**Total**	**Women**	**Men**	**Ratio**
Unwelcome invasion of personal space	7.2%	12.3%	2.9%	4.3 : 1
Unwelcome sexually suggestive looks or gestures	4.6%	8.5%	1.4%	6.0 : 1
Unwelcome communications of a sexual nature	3.2%	5.4%	1.5%	3.7 : 1
Sexual Coercion	**Total**	**Women**	**Men**	**Ratio**
Pressure for dates	1.7%	2.5%	0.8%	3.1 : 1
Stalking (intrusion into your personal life)	1.7%	2.4%	1.1%	2.1 : 1
Offer of preferential treatment for sexual favors (quid pro quo)	1.1%	1.5%	0.7%	2.1 : 1
Pressure for sexual favors	0.9%	1.4%	0.6%	2.5 : 1
Sexual assault or attempted sexual assault	≤0.5%	≤0.5%	≤0.5%	*

In addition, **Table 4** shows that behaviors associated with a hostile work environment—both gender harassment and unwanted sexual attention—are more common than overt sexual coercion or assault. This may be due in part to the greater agreement among employees that sexual coercion is egregious sexual harassment and therefore, misconduct that is likely to be punished.

Characteristics of Individuals Who Commit Sexual Harassment

Federal agencies are responsible for protecting all employees from sexual harassment, regardless of the source of the harassment. As stated in 29 CFR 1604.11(d), the agency can be held "responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action." The agency may also be responsible for sexual harassment by "non-employees" (such as customers and contractors in the work space).

[9] The descriptions of the behaviors have been paraphrased from the survey. The reported incidence of sexual assault was too low to yield a usable ratio.

Information about harassers can help employers identify risks, target training and education, and focus accountability. Accordingly, the MPS 2016 asked those employees who experienced sexual harassment to reflect on the one experience that had the greatest impact on them and to provide information about their harasser(s), including the role, number and sex.

As shown in **Table 5**, Federal employees most frequently said that the perpetrator was another agency employee, often a coworker within the same work unit. However, immediate and higher-level supervisors were also mentioned, which is not surprising given the influence that they can hold over an employee. Harassment by an employee in a position of authority may lead employees to believe that resisting or complaining would be futile or put the employee at risk for retaliation.

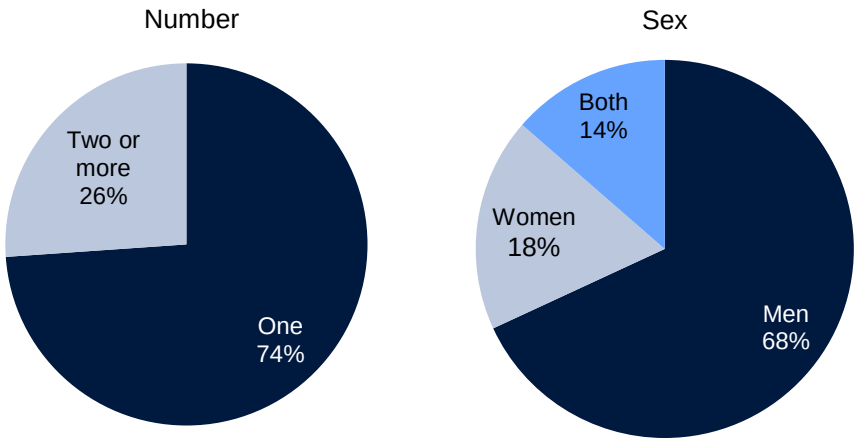
Coworkers and other agency employees are the most frequent perpetrators of sexual harassment, but supervisors and members of the public were also frequently mentioned.

Table 5. Role of the Person Committing Sexual Harassment[10]

Category	Role	Percentage
Agency Official	Immediate supervisor	11%
	Higher level supervisor	12%
Agency Employee	Coworker	45%
	Subordinate	8%
	Other employee	27%
Other	Customer/member of the public	15%
	Contractor	5%
	Personal relationship	3%
	Criminal	1%
	Other	9%

Overall, harassment by a single individual was most common, accounting for approximately three-fourths of the instances described, and the harasser was male in approximately two-thirds of the occurrences (see **Figure 3**). Harassment by a person or persons of the opposite sex from the person harassed was typical, although harassment by employees of the same sex or mixed groups also occurred.

Figure 3. Number and Sex of the Person(s) Committing Sexual Harassment



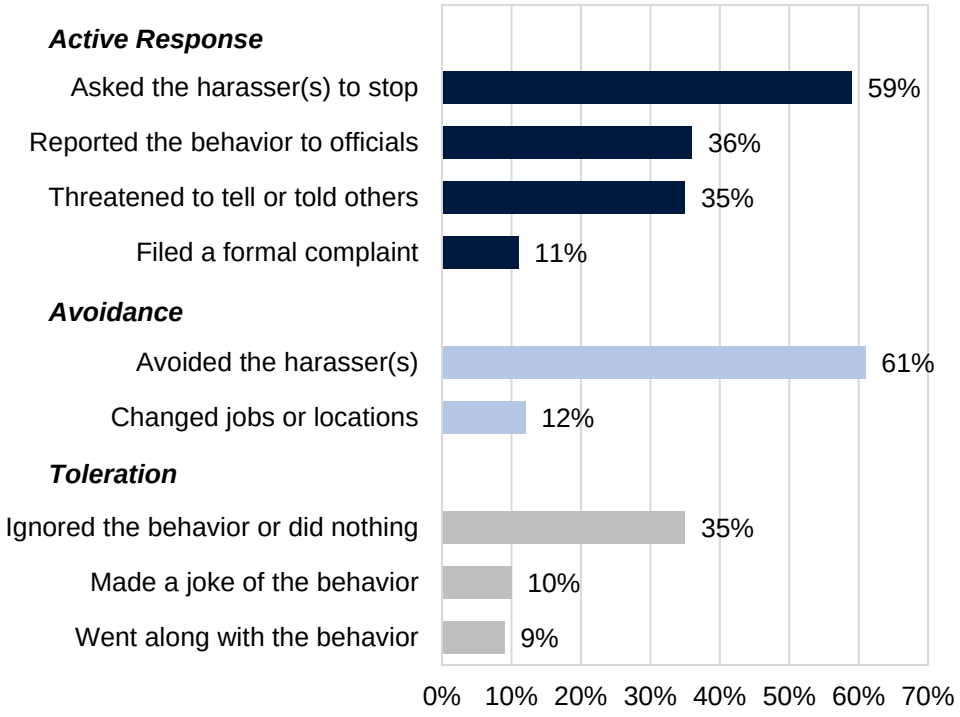
[10] Respondents could indicate multiple harassers and roles. Therefore, totals can exceed 100 percent.

Actions Taken by Employees in Response to Sexual Harassment

Employees who experience sexual harassment must decide whether and how to respond, both when harassment occurs and after the harasser and/or organization have acted on the initial response. As shown in **Figure 4**, some common responses to sexual harassment include:

1. An active response, such as telling the harasser to stop; reporting the behavior to the supervisor or other officials; threatening to tell or telling others; or filing a formal complaint;
2. Avoidance, from avoiding the person in the workplace to changing jobs or locations; and
3. Passive toleration, such as ignoring the behavior; making a joke of the behavior; or going along with the behavior.

Figure 4. Actions Taken by Employees in Response to Sexual Harassment[11]



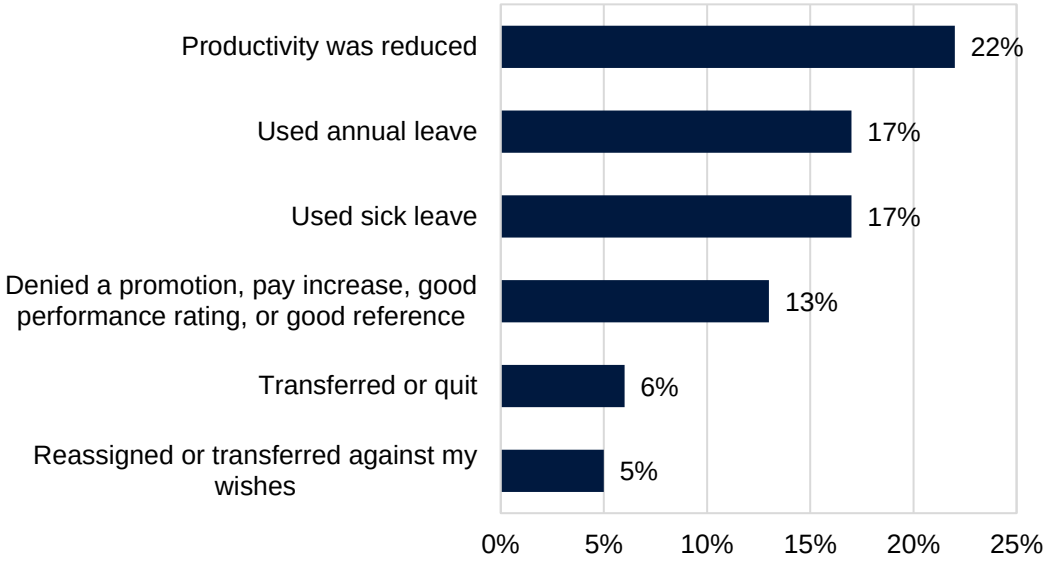
Effects of Sexual Harassment on Employees and Organizations

In choosing among potential responses to sexual harassment, one of the most important factors may be the employee's belief regarding the likely consequences of their actions. For each of the options listed above, employees who took each action in response to sexual harassment had mixed opinions regarding the outcomes. Some felt the action made their situation better; some felt it made things worse, while others said no change occurred. Further, only than 8 percent of the employees believed that corrective action was taken against the harasser(s). Thus, employees may conclude that the risks of reporting harassment outweigh any potential personal or organizational benefits, and decide not to use agency procedures for addressing sexual harassment and holding the harasser(s) accountable for their misconduct.

As shown in **Figure 5**, some employees experienced other negative consequences of either the sexual harassment or the actions they took in response to it. Many of these consequences are costly not only to the employee, but also to the organization. Agencies that tolerate sexual harassment may incur broader costs beyond the more obvious legal expenses associated with resolving equal employment opportunity complaints.

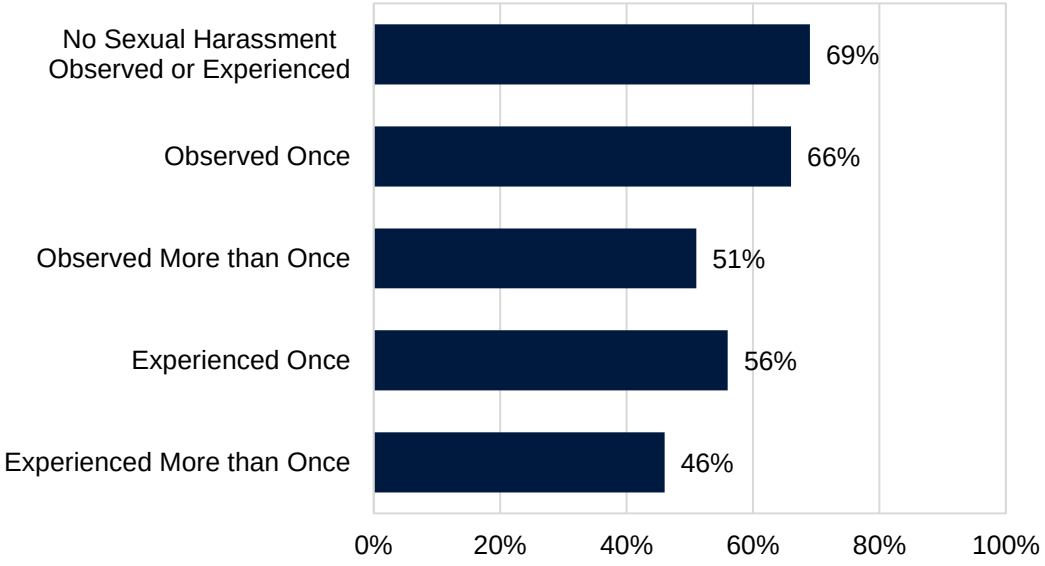
[11] Respondents could indicate multiple actions taken. Therefore, totals can exceed 100 percent.

Figure 5. Perceived Consequences of Sexual Harassment or the Actions Taken by the Employee in Response to the Sexual Harassment



Our survey data also revealed that the effects of sexual harassment are not limited to those employees who directly experience it. For example, as shown in **Figure 6**, employees who experience sexual harassment are less likely to recommend their agency as a place to work, but those who frequently observe harassment are also substantially less likely to encourage others to pursue employment at their agency.

Figure 6. Employees Who Would Recommend Their Agency as a Place to Work by Observation or Experience of Sexual Harassment



Similarly, **Table 6** shows that employees who have experienced or observed sexual harassment are much less likely to be satisfied with various aspects of the workplace such as their supervisor, managers, their organizational culture, and their level of job stress. Not surprisingly, such employees are also less inspired to do their best work. Considering that approximately 14 percent of Federal employees experienced sexual harassment within the past two years, and an additional 13 percent observed it (without personally experiencing it), it is clear that addressing sexual harassment has great potential to improve not only fairness, but also the efficiency and effectiveness of the Federal workforce.

Table 6. Effects of Observing or Experiencing Sexual Harassment on Employees

Survey Item (percentage satisfied/agreeing)	Sexual Harassment				
		Observed		Experienced	
	None	Once	More than Once	Once	More than Once
Satisfied with supervisor	77%	69%	61%	62%	59%
Satisfied with managers	60%	52%	45%	44%	40%
Satisfied with organizational culture	58%	43%	38%	44%	34%
Satisfied with level of work stress	55%	50%	39%	46%	36%
Inspired to do my best work	71%	60%	51%	63%	52%

Conclusion

Progress has been made since 1994 in reducing sexual harassment within the Federal Government. However, it is also clear that many employees, particularly women, continue to experience sexual harassment. Therefore, Federal agencies must improve their education of employees about their responsibilities and rights regarding workplace conduct and hold employees who commit sexual harassment accountable for their misconduct.