



STREET HARASSMENT:

Know Your Rights

SEPTEMBER 2014



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DLA PIPER

Lauren Ackermann, Michelle Anderson, Emily Battersby, Phillipe Blaquier-Cirelli, Sean Crain, Ilaria Curti, Christine Daya, Jennifer Dinsmore, Daniel Egan, Dr. Kirsten Girth, Fiona Harris, Julia Hassall, Katarzyna Kopytowska, Agnieszka Lechman-Filipiak, Katharine Liao, Zoe Lomax, James Moss, Elsa de Mullenheim, Laura Nadel, Stewart Plant, Raffaella Quintana, Adam Reinke, Gavin Reinke, Eva Ruhswurmová, Maia Sevilla-Sharon, Peter Valert, Edith Van Lishout, Amy Walters, Alexander Yeramian

DLA PHILLIPS FOX

Adam Holloway, Igor Tokmadzic



HEWLETT PACKARD

Rocío Arredondo Eguren, Jean Paul Borit Salinas, Juan Carlos Tornel, María Eugenia Montero, Manuel Mejia



BLAKE, CASSELS & GRAYDON LLP

Stefania Zilinskas



DIVJAK, TOPIC & BAHTIJAREVIC

Jalena Bosnak

THE ROYAL BANK OF SCOTLAND

Susannah Black



LAWQUEST INTERNATIONAL

Riddhima Sharma

INTEL CORPORATION

Juan Martinez and Tara Mac Mahon



YIGAL ARNON & CO

Barry Levenfield, Shallya Scher



MASON, HAYES & CURRAN

Ronnie Neville



NEUPANE LAW ASSOCIATES

Anjan Neupane



NORTON ROSE FULBRIGHT

Nerushka Deosaran, Liesl Williams



GUNELI & KOC LAW FIRM

Nihan Guneli



YÜKSELKARKINKÜÇÜK ATTORNEY PARTNERSHIP

Begüm Biçe, Murat Karkın

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FOREWORD

Street harassment affects the safety and wellbeing of women and girls worldwide. It can take many forms, including catcalling, groping or stalking, and leads to fear and intimidation.

Global research shows that the vast majority of women have endured this form of gender-based violence. In Egypt, for example, a recent survey found that 99.3% of women have experienced harassment at least once in their lives, while 49% of respondents faced harassment daily¹. Women and girls face street harassment in many public places, whether they are walking to school, using public transport, or traveling to work.

The Thomson Reuters Foundation's global pro bono service, TrustLaw, is proud to present this guide, which outlines laws and policies related to street harassment around the world. This guide is the result of a collaboration between TrustLaw, Hollaback!, and a team of dedicated lawyers around the world. DLA Piper played a leading role in producing the guide, together with Blake, Cassels & Graydon LLP, DLA Phillips Fox, Divjak, Topic & Bahtijarevic, Guneli & Koc Law Firm, Hewlett Packard, Intel, LawQuest International, Mason, Hayes & Curran, Neupane Law Associates, Norton Rose Fulbright, The Royal Bank of Scotland, Yigal Arnon & Co and Yüksel Karkin Küçük Attorney Partnership.

The guide covers 36 jurisdictions including Canada, India, Colombia, South Africa and the United States. We are incredibly grateful to the contributing law firms and their teams of lawyers for committing their time and expertise to make this guide possible.

At the Thomson Reuters Foundation we have an unwavering commitment to strengthening women's rights through the rule of law. Our annual Trust Women Conference forges tangible commitments to empower women to know and to defend their rights. Each year, our perception polls engage the world's leading gender experts and generate international debate by putting human rights at the top of the news agenda.

We also do this through TrustLaw, where we connect the best law firms around the world with NGOs and social enterprises in need of free legal assistance. This guide is one of a series of TrustLaw publications that aim to improve laws and policies that affect women worldwide.

We hope that this guide will become a tool to support advocates, legislators and citizens in their fight to end street harassment worldwide.



MONIQUE VILLA
CEO, Thomson Reuters Foundation

¹ UN Women (2013), *Sexual Harassment in Egypt. The Causes and Confrontation Methods*.

INTRODUCTION

One summer night in 2005, I was sitting on a roof deck with my childhood friend Sam Carter. I was telling him stories of the sexual harassment I faced on the streets – verbal harassment, gestures, groping, and worse. He was shocked. He had no idea that this was so common, much less so grotesque. He looked me in the eye and said, “Emily, you live in a different New York City than I do.”

In that moment, something clicked. For the first time I understood the damage that street harassment had done to me and knew it had to stop. After watching the fall of sexual harassment in the workplace, I knew it was possible to end street harassment too. But I also knew it would take a lot of work.

We are now witnessing the infancy of a movement so powerful that it will change the way we walk down the street. In Egypt, people are banding together to go into crowded areas and literally remove women from situations in which they are trapped and surrounded by men. In India, thousands took to the streets after a brutal gang rape and murder in Delhi. And Hollaback! has expanded to all the continents globally – except Antarctica. With over half of the world’s population living in cities, our collective right to walk down the street safely is becoming the social movement of young people globally.

Street harassment is a form of sexual harassment that takes place in public spaces. At its core is a power dynamic that constantly reminds historically subordinated groups (women and LGBTQ folks, for example) of their vulnerability to assault in public spaces. Further, it reinforces the ubiquitous sexual objectification of these groups in everyday life. Street harassment can be sexist, racist, transphobic, homophobic, ableist, sizeist and/or classist. It is an expression of the interlocking and overlapping oppressions we face and it functions as a means to silence our voices and “keep us in our place.” The explosion of technology has given us an unprecedented opportunity to end street harassment – and with it, the opportunity to take on one of the final new frontiers for women’s rights around the world.

For me, it started with a woman Thao. In 2005 Thao Nguyen was riding the New York City subway when a man sat down across from her and started to publicly masturbate. She was alone on the train, and took a picture of him with her cell phone camera with

the intent of showing it to the police. When she did, the police said there was nothing they could do. Thao decided to take action into her own hands and found her way to flickr, the photo sharing website, to tell her story. Thao's photo ended up making it all the way to the cover of the NY Daily News, and inspired seven young adults, myself included, to start **Hollaback!**, a blog that provides everyone the chance to do what Thao did – share their story of harassment as a way of bringing long overdue attention to street harassment.

Since then, we've collected over 7,000 stories from women and lesbian, gay, bisexual, and transgender individuals in a safe and share-able way, and over the past two years we've seen a 42% increase in stories reported around the world. We're mapping these stories along district lines so that we can show legislators: here is what is happening in your district. And we're using these stories for research – employing content analysis to identify the role of bystanders and the long term impacts of street harassment, including: anxiety, depression, and post-traumatic stress disorder.

At Hollaback!, we understand that street harassment operates differently in Buenos Aires than it does in Tel Aviv – and we believe that local leaders should have complete control over defining the problem and the solution. We prioritize community based solutions, and our role is to provide resources and information that local leaders can use on the ground. In December 2013, after watching several of our local leaders struggle to find reliable information on local laws, we embarked on a mission to make local laws for verbal harassment, groping and public masturbation transparent and accessible.

Although Hollaback! does not endorse increasing criminal penalties to street harassment, there is power in knowing when and where street harassment is illegal. It encourages communities not to tolerate such behaviors, and it gives options to survivors. It is our sincere hope that by helping people understand their rights, they will be better equipped to decide if legal recourse is the right path for them.

The development of this guide was a tremendous undertaking that required lawyers who could navigate local laws in 14 languages – and would have been financially impossible without the support of Trust Law and the team of legal partners who worked on this report on a pro-bono basis. I owe special thanks to Alisha Miranda of TrustLaw, who connected me with the team, and Laura Nadel of DLA Piper for working hard to coordinate the team of lawyers and facilitate the collaboration that has resulted in this ground-breaking guide.

Thanks to the incredible work of our teams at TrustLaw and DLA Piper, as well as your support, we are one step closer to ending street harassment.

EMILY MAY

Co-Founder and Executive Director Hollaback!

OVERVIEW

This Guide outlines the legal recourse available to victims of street harassment, which varies significantly from country to country. Thanks to the work of **Hollaback!** and other campaign groups, governments, organisations and individuals around the world are increasingly aware of and willing to tackle street harassment using legal means.

For example, prosecutions for street harassment have been rare in **Argentina** in the past. However while this report was being compiled, a man who improperly touched and said obscene words to a woman in the street in a Southern province of Argentina faced criminal charges for sexual harassment after being captured by the police minutes after the act. He faced a penalty of 6 months to 4 years of prison. In **Belgium**, there is now a specific system for fining people that cause trouble, mainly in public places. Since June 12, 2013, the city of Brussels imposed 69 fines for sexual remarks towards women and same sex relationship abuse. In **Canada**, one-off incidents have led to prosecutions for criminal harassment such as in the 2009 case where an offender jumped out from behind bushes to block a stranger jogging in a residential neighbourhood at night, chased her to a house and stared at her while she waited for someone to open the door. In **Nepal**, police have the right to immediately arrest a person suspected of committing street harassment without a warrant.

There remain significant legal barriers to successful prosecutions of street harassment. In some jurisdictions there is no clear definition of unlawful harassment, although jurisdictions including **Colombia** apply a number of general laws in cases of street harassment. Prosecution may be discretionary or may result only in a minor punishment. In contrast, other places do have very specific legal protections against harassment. For example, in the state of Iowa, **USA** a comprehensive and specific law against harassment exists under which a perpetrator was successfully prosecuted for making an obscene gesture and grabbing the victim's baseball bat during a heated discussion.

One key practical issue is that it is often difficult to identify the perpetrator where they are previously unknown to the victim. In **Ireland**, it is recognised that even if the reporting of a specific incident may not lead to prosecution and conviction in that case, the information may help combat harassment in future. Therefore the police, An Garda Síochana, log all complaints and are able to collate reports of a similar type to establish patterns and detect repeat offenders. This issue has also been addressed in **England** through British Transport Police's (BTP) anti-harassment strategy on London's transport

system. Project Guardian was launched in 2013 and Hollaback! representatives were key advisers to the BTP. The project includes several measures to identify offenders such as the use of technology including CCTV tracking, data analysis (identifying harassment hotspots) and text-based reporting services. It also includes targeted “weeks of action” in which extra uniformed and plain-clothes officers patrol London’s transport network, gather intelligence and communicate with the public, with the aim of sending a message to harassers as well as achieving an increased number of actual arrests.

Even where perpetrators are identified, lack of witness and other evidence is a significant barrier to successful prosecutions in many jurisdictions. In countries such as **Germany** and **Turkey**, the principle of “when in doubt, for the accused” may apply, meaning a defendant is unlikely to be convicted by the court when it is simply a case of the victim’s word against the defendant’s and there is no other evidence. It is therefore strongly recommended that where possible, victims of street harassment collect any evidence that is available to them, including taking photos. Victims should also take down the contact details of any witnesses and in cases of any physical harm, should attend hospital as soon as possible and obtain appropriate medical reports about any injuries they have sustained.

Many places recognise that the reporting of harassment can be a difficult process itself and that victims require support and assistance. **Croatia** gives specific legal protection to those who report harassment: there is a separate misdemeanour under which it is unlawful to discriminate against any person because he/she reported harassment. In **New Zealand**, victims have certain rights in relation to the way they are treated and can complain if they are not treated with courtesy and compassion or are not properly advised of services that are available to assist them. In **South Africa**, victims of harassment are able to apply in the Magistrates Courts for a protection order (an order that is enforceable by the police that prevents the person you are complaining about from harassing you) and every Magistrates Court has a dedicated clerk trained to deal with victims making such applications. The Jacksonville Police Department in North Carolina, **USA**, has a victim assistance program that offers confidential services free of charge to crime victims, including crisis intervention and short-term counselling, information on the status of an investigation and an explanation of the criminal justice system and the victim’s role in that system.

Other places recognise that the ability to report crime anonymously can eliminate intimidation. In **Australia**, crimes can be reported on an anonymous basis until the matter goes to court. The **Czech Republic** permits anonymous reporting of crimes although this may affect the credibility of the allegations. Metro Crime Stoppers (a volunteer organization actively supporting law enforcement agencies in solving crime in the City of Baltimore, **USA**) gives Baltimore residents the ability to anonymously report crime tips to the police and potentially earn a monetary reward.

Some jurisdictions use civil or administrative laws as a tool to prevent street harassment. In Lima, **Peru**, fines can be levied against those guilty of inappropriate

behaviour (defined as unwanted sexual advances, obscene gestures, sexual jokes, touching, etc.) in public commercial establishments or construction sites. In **Poland**, if a victim feels that his or her moral rights (in particular honour) have been violated by the perpetrator's unlawful behaviour, under Polish civil law a victim of street harassment can demand that the perpetrator apologise in public (also in the form of a newspaper announcement) for his/her actions.

A key practical step in the fight against street harassment is making transport systems safe. Since 2012, the **French** railway company SNCF offers women travelling overnight the option to reserve a bunk bed in a women only compartment. In Atlanta, USA the MARTA Code of Conduct prohibits people who are using public transportation from engaging in "disorderly or inappropriate conduct that is inconsistent with the orderly and comfortable use of buses, rail cars, or transit facilities" and violators can be prohibited from using public transport. In **India** there are provisions such as reservation of seats in public transport including buses and separate ladies only compartments for women in local trains. Mumbai, India also has special ladies only local trains operating at different times during the day.

A number of private companies and institutions are also taking practical steps to combat street harassment. In Rome, **Italy** there is a women-only discounted taxi service that ensures passengers are safely inside their home before leaving. In **Israel**, universities and many public institutions have their own anti-harassment policies.

Of course, a legal framework is but one element required to tackle street harassment. Public awareness, changing attitudes, enforcement and prosecution are a number of other components which are also needed.

It is our hope that through contributing to this important resource for Hollaback! individuals and communities alike will be more empowered to take action against street harassment.

LAURA NADEL

Legal Director, DLA Piper

ARGENTINE REPUBLIC

LEGAL CONTACT:

María Eugenia Montero, *Hewlett Packard Argentina*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

There are no regulations in the Argentine Republic that specifically prohibit and penalize street harassment in general.

However, certain behaviours (e.g. public exposure) are penalized by regulations. In this regard, please refer to our comments in item 2 below.

LAW 26,485 (“VIOLENCE LAW”)¹ – this national law is aimed at promoting and guaranteeing the eradication of violence against women. Violence Law considers as violence against women, among other behaviours, the psychological violence causing emotional damage through harassment.

VIOLENCE LAW’S REGULATORY DECREE 1011/2010 (THE “DECREE”) – it considers that referring to women as “objects” is an act of violence.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Local rules penalize verbal harassment at a provincial level, as follows:

- (i) **Province of Cordoba:** its contravention code imposes a fine of up to 5 Fixed Fine Units² or the penalty of 10 days of imprisonment³ to anyone who affects other person’s dignity through gestures or words
- (ii) **Province of Buenos Aires:** its contravention code states that anyone who shouts, insults, threatens or provokes another person in any way in a public place, is to be penalized with a fine amounting to 15% to 40% of the monthly salary of a police officer of the Province of Buenos Aires, and/ or imprisonment of 2 to 30 days.
- (iii) **City of Buenos Aires**⁴: its contravention code states that anyone who intimidates, or harasses in a threatening way, or physically mistreats other person (as long as the conduct is not a crime under criminal law), is to be penalized with a fine from AR\$ 200 to AR\$ 1,000,⁵ mandatory public utility work or 1 to 5 days of imprisonment.⁶

1 This law is mandatory in all the country.

2 Each Fixed Fine Unit amounts to AR\$ 25, which is aprox. equal to US\$ 2.5.

3 The penalty of imprisonment is raised to 20 days if the victim is less than 16 years old or if the offense is performed at night.

4 Please note that the City of Buenos Aires and the Province of Buenos Aires are different jurisdictions.

5 This amounts aprox. to US\$ 20 and US\$ 100, as the unofficial dollar exchange rate is AR\$1=US\$10.

6 The penalties are doubled in certain cases (for instance, if the victim is less than 18 years old).

(b) Groping/unwanted physical conduct?

We have not identified any regulation that expressly penalizes groping/unwanted physical conduct.

However, if such groping/unwanted physical conduct could be deemed as a mistreating of the victim, then certain local rules might be applied.

For example, as regards the province of Buenos Aires, its contravention code penalizes anyone who hits or mistreats other person (without causing him/her injuries) by imposing a fine amounting to 15% to 40% of the monthly salary of a police officer of the Province of Buenos Aires and, if the conduct is performed by 3 or more people, by setting forth the imprisonment of the offenders from 10 to 30 days.⁷

(c) Public masturbation?

Argentine Penal Code⁸ imposes a fine to anyone who performs or makes others perform obscene exposure acts that can involuntarily be seen by other people.

In case the affected people were less than 18 years old or less than 13 years old (the latter regardless his/her intent to see the exposure acts), the penalty is the imprisonment from 6 months to 4 years.

(d) Public exposure?

Please refer to the comments included in 2.(c) above concerning public masturbation, which apply to public exposure in general.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Please find below some comments on reporting of harassment:

- (i) Following the general rule for denouncements, street harassment is to be reported to the relevant⁹ police station or prosecution office.

Notwithstanding the foregoing, in the City of Buenos Aires, for example, there is a special police station to report sexual abuse. The phone numbers are available 24 hours a day and are [+54114981-6882](tel:+541149816882) / [+54114958-4291](tel:+541149584291) and the email is abusosexual@policiafederal.gov.ar.

There are other police stations to report violence to women in the Province of Buenos Aires.

- (ii) Notwithstanding the foregoing, if there has been violence against women and thus Violence Law is to be applied, reporting could be done either orally

⁷ This applies also to those who just stayed at the place where the offence was performed.

⁸ This is mandatory for all the country.


⁹ Having jurisdiction at the place where the act was performed.

or in written at any court,¹⁰ or prosecution office, or police station (in which case the records shall be sent to the competent court within 24 hours).

In case of reporting under Violence Law, that identity of the person who makes the report shall be kept secret.

- (iii) The National Counsel for Women (*Consejo Nacional de la Mujer*) has a free phone number to report violence in general and to ask for assistance. This number is 144 and it is available to call from any part of the country, during the 24 hours of the 365 days of the year.

The Government of the City of Buenos Aires also offers number 0800-66-MUJER (68537) to denounce acts of violence against women and mainly sexual crimes. This number attends 24 hours the 365 days of the week.

There are other numbers which can be called, at a national and local level. Please refer to [this website](#)  of the Argentine Ministry of Justice.

- (iv) Violence Law states that those who provide assistance, education and health services must report to the authorities any act of violence against women they may acknowledge.¹¹
- (v) Notwithstanding the foregoing, reporting on street harassment is not common in the Argentine Republic.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

Please refer to the comments included in 3. above concerning reporting.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

We have not identified any specific policy on harassment and nothing has been done in such regard up-to-date by Argentine authorities.

However, there are some policies concerning violence against women, as follows:

- (i) The National Prosecution Office created a program on gender policies in 2012 (through [RESOLUTION 533/2012](#)), in order to act against the violence and discrimination against women. This program was a result of some observations concerning such matter made by the U.N. Committee on the Elimination of Discrimination against Women to the Argentine Government. This program is aimed at encouraging prosecutors to adopt

¹⁰ Of any jurisdiction or instance.

¹¹ Even if such act is not a crime under Argentine Penal Code.

gender perspective in their tasks, handle and organize information on gender violence, train officers regarding violence against women.

- (ii) Violence Law instructs governmental authorities to implement relevant policies for its application, through the National Counsel for Women.
- (iii) The Decree instructs such National Counsel for Women to prevent, penalize and eradicate messages to promote exhibition of acts of harassment, violation and intimidation against women.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No. In fact: (i) many of the abovementioned applicable regulations are mandatory at a national level, (ii) the abovementioned local rules are similar in each jurisdiction, and (iii) the absence of regulations affects all jurisdictions similarly.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

The Argentine Republic is party to the [INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT, AND ERADICATION OF VIOLENCE AGAINST WOMEN \(THE "CONVENTION"\)](#), which includes a requirement on its parties to adopt measures to prevent harassment to women.

The Convention was included in Argentine regulations (as a country level mandatory act) through [LAW 24,632](#). Violence Law states that its purpose is to guarantee the rights protected and acknowledged by the Convention. Additionally, Violence Law provides that Argentine security forces and authorities (courts, ministries, Congress), as explained above, must adopt necessary measures to make the Convention operative and to implement it in the Argentine Republic.

We would like to include a general comment on the cultural treatment to street harassment in the Argentine Republic in order to explain, as to our belief, the absence of specific rules on the matter and the lack of reporting of such behaviour.

Unfortunately, Argentine society is used to street harassment of all kind and, as this is not an issue raised by the community/security forces/communication media, we really do not foresee its eradication (or at least the intention to do so) in the near future.

In fact, most people do not consider it as a real act of violence that should be penalized and, for instance, deem verbal harassment as compliment (known as *piropo*) or even consider that the victim is to be blamed for any groping/unwanted physical conduct for the way she dresses.

Verbal harassment is very common and most women must face at least once in their lives public exposure from men (even when they are young girls). As to groping/unwanted physical conduct, it is not so common but it can happen to anyone in the streets but mainly in very crowded means of transport.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Prosecutions for street harassment remain very rare in Argentina. However in January 2014 a man who improperly touched and said obscene words to a woman in the street in a Southern province of Argentina faced criminal charges for sexual harassment under Penal Code after being captured by the police minutes after the act. He faced a penalty of 6 months to 4 years of prison. You can see the news in these links:

Clarín.com, *Le tocó la cola a una mujer y podría ir cuatro años preso* [🔗](#)

Infobae.com, *Puerto Madryn: manoseó a una mujer en la calle y podría pasar cuatro años en la cárcel* [🔗](#)

AUSTRALIA

LEGAL CONTACTS:

Julia Hassall, Fiona Harris, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. Although Australia does not have a specific criminal offence of “street harassment”, various types of street harassment are criminal offences in each of Australia’s six states and two territories (Australian Jurisdictions).

In Australia, criminal law concerning street harassment is generally dealt with by State law, not Federal law. Each Australian Jurisdiction has its own individual criminal legislation. Whilst legislative provisions differ slightly, the types of street harassment that are considered illegal and the penalties that may be imposed are broadly the same.

Using threatening, abusive or insulting language in a public place is a summary criminal offence in all Australian Jurisdictions. A summary offence is less serious than an indictable offence and the penalties that are imposed are not as severe. Summary offences are tried by a Magistrate or a Judge alone rather than by a Judge and jury and the usual penalty is a small fine and/or a short term of imprisonment.

The Australia Jurisdictions deal with verbal street harassment as follows:

- (i) In [New South Wales](#) it is a criminal offence to use “*offensive language in or near, or within hearing from, a public place.*” The maximum penalty is \$660 or 100 hours of community service: [SECTION 4A OF THE SUMMARY OFFENCES ACT 1988 \(NSW\)](#).
- (ii) In [Western Australia](#) it is a criminal offence to use “*insulting, offensive or threatening language*” in a public place. The maximum penalty is \$6000: [SECTION 74A OF THE CRIMINAL CODE COMPILATION ACT 1913 \(WA\)](#).
- (iii) In the [Northern Territory](#) it is a criminal offence to use “*obscene language*” in a public place or within the hearing or view of any person in a public place. The maximum penalty is \$2000, or imprisonment for 6 months, or both: [SECTION 47 OF THE SUMMARY OFFENCES ACT \(NT\)](#).
- (iv) In [Victoria](#) it is a criminal offence to use “*profane indecent or obscene language or threatening abusive or insulting words*” in or near a public place or within the view or hearing of any person in a public place. The maximum penalty is \$1443.60 or imprisonment for 2 months for a first offence, \$2165.40 or imprisonment for 3 months for second offence, and \$3609 or imprisonment for 6 months for a third or subsequent offence: [SECTION 17 OF THE SUMMARY OFFENCES ACT 1966 \(VIC\)](#).
- (v) In [Tasmania](#) it is a criminal offence to “*curse or swear*”, to “*use any profane, indecent, abusive, offensive, or blasphemous language*” or to “*use any*

threatening, abusive, or insulting words or behaviour with intent or calculated to provoke a breach of the peace or whereby a breach of the peace may be occasioned" in any public place or within the hearing of any person in a public place. The maximum penalty is \$390 or imprisonment for a maximum of 3 months: [SECTION 12 OF THE POLICE OFFENCES ACT 1935 \(TAS\)](#).

- (vi) In [Queensland](#) it is a criminal offence to use "*offensive, obscene, indecent or abusive language*" or "*threatening language*" in a public place. The maximum penalty is \$1100 or imprisonment for 6 months: [SECTION 6 OF THE SUMMARY OFFENCES ACT 2005 \(QLD\)](#).
- (vii) In [South Australia](#) the use of offensive language in a public place is both an offence against public order, and an offence against decency. [SECTION 7 OF THE SUMMARY OFFENCES ACT 1953 \(SA\) \(OFFENCES AGAINST PUBLIC ORDER\)](#) provides that it is a criminal offence for a person to use "*offensive language*" in a public place. The maximum penalty is \$1250 or imprisonment for three months. [SECTION 22 OF THE SUMMARY OFFENCES ACT 1953 \(SA\) \(OFFENCES AGAINST DECENCY AND MORALITY\)](#) provides that it is a criminal offence for a person to use "*indecent or profane language*" in a public place. The maximum penalty is \$250.
- (viii) In the [Australian Capital Territory](#) the use of offensive language in a public place does not, in and of itself, constitute a distinct criminal offence. Instead, it falls within the offence of "*offensive behaviour*". It is a criminal offence for a person to "*behave in a riotous, indecent, offensive or insulting manner*" in a public place. This would include using offensive or insulting language. The maximum penalty is \$1000: [SECTION 392 OF THE CRIMES ACT 1900 \(ACT\)](#).

Examples of verbal street harassment which are illegal include swearing at someone, or making unwanted and inappropriate sexual comments, in a public place.

Whether or not the use of offensive language ultimately results in a conviction depends largely on the particular circumstances of the case. Indeed, the High Court (Australia's most supreme court) has held that concepts of what is offensive, disorderly or indecent vary with time and place, and may be affected by the circumstances in which the conduct occurs¹².

Other types of street harassment which are against the law are outlined in section 2 below.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. The use of offensive language is specifically outlawed (see section 1 above).

In most Australian Jurisdictions, verbal threats of unwanted physical force or contact will also fall within the criminal offence of "*assault*" (see section 2(b) below).

In Tasmania, Queensland and Western Australia words alone do not constitute an assault.

¹² *Coleman v. Power* (2004) HCA 39 per Gleeson J.

(b) Groping/unwanted physical conduct?

Street harassment which involves the unwanted application of physical force falls under the criminal offence of “*assault*”. Assault is a criminal offence in all Australian Jurisdictions.

You don’t have to hit someone to be charged with assault. Pushing, shoving, kicking, biting, pulling hair, spitting at, scratching and slapping someone can be classed as assault.

Furthermore, in some Australian Jurisdictions, threatening to apply unwanted physical force to someone, either by words alone, or by way of a gesture or bodily movement, can also be classed as assault.

In Australia there are different kinds of assault such as “*common assault*” (regular assault) and “*indecent assault*” (actions which have a sexual connotation)¹³. Different penalties apply depending on the seriousness of the assault including whether there are any the injuries to the victim.

COMMON ASSAULT

- (i) In [New South Wales](#) assault is defined as any act which includes the “*apprehension of injury or the instillation of fear or fright*”.¹⁴ This would include physical contact as well as verbal threats of physical contact. Assault is punishable by imprisonment for 2 years: [61 OF THE CRIMES ACT 1990 \(NSW\)](#).
- (ii) In [Western Australia](#) [SECTION 222 OF THE CRIMINAL CODE 1913 \(WA\)](#) provides a broad definition of assault such that it occurs where a person strikes, touches or moves or otherwise applies (or threatens by bodily act or gesture to apply) force of any kind to the person. This would include physical contact as well as threats by way of a gesture. For example, if someone raises their hand to gesture that they are about to hit someone, that would be classed as assault. Verbal threats alone are not enough. Assault is punishable by imprisonment for 3 years and a fine of \$36 000 if the offence is committed in circumstances of aggravation or in circumstances of racial aggravation, or in any other case, to imprisonment for 18 months and an \$18000 fine: [SECTION 313 CRIMINAL CODE 1913 \(WA\)](#).
- (iii) In the [Northern Territory](#) assault is defined in [SECTION 187 OF THE CRIMINAL CODE \(NT\)](#) as the “*direct or indirect application of force to a person without his consent*” which includes an attempt or threatened application of force. This would include physical contact as well as verbal threats of physical contact. Assault is punishable by a minimum of imprisonment for 1 year: [SECTION 188 OF THE CRIMINAL CODE \(NT\)](#).
- (iv) In [Victoria](#) it is a criminal offence under [SECTION 31 OF THE CRIMES ACT 1958 \(VIC\)](#) to “*assault or threaten to assault*” a person. This would include physical contact as well as verbal threats of physical contact. Assault is broadly defined to mean “*the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by, another person*”

¹³ *R v Harkin* (1989) 38 A Crim R per Lee J.

¹⁴ *The Queen v Phillips* (1971) 45 ALJR 467 at 472.

where the application of force is without lawful excuse and with intent to inflict or being reckless as to the infliction of bodily injury, pain, discomfort, damage, insult or deprivation of liberty and results in the infliction of such consequence". Assault is punishable by imprisonment of up to 5 years.

- (v) In [Tasmania](#) it is an offence under [SECTION 184 OF THE CRIMINAL CODE ACT 1924 \(TAS\)](#) to commit an act of "intentionally applying force" to another person or "attempting or threatening by any gesture" to apply force, as defined in [SECTION 182](#) of that Act. This would include physical contact as well as threats by way of a gesture. Verbal threats alone are not enough.
- (vi) In [Queensland](#) it is an offence to apply or threaten (by bodily act or gesture) to apply force to another person under [SECTION 246 OF THE CRIMINAL CODE ACT 1899 \(QLD\)](#). This would include physical contact as well as threats by way of a gesture. Verbal threats alone are not enough. The penalty is imprisonment for 3 years: [SECTION 335 CRIMINAL CODE ACT 1899 \(QLD\)](#).
- (vii) In [South Australia](#) [SECTION 20 OF THE CRIMINAL LAW CONSOLIDATION ACT 1935 \(SA\)](#) defines assault as an act in which the perpetrator intentionally applies force or makes or threatens (by words or conduct) physical contact to apply force and there must be reasonable grounds for the victim to believe that the person who makes the threat is in a position to carry the threat. This would include physical contact as well as verbal threats of physical contact. Assault is punishable by a maximum of 4 years imprisonment.
- (viii) In the [Australian Capital Territory](#) assault is punishable by a imprisonment for 2 years under [SECTION 26 OF THE CRIMES ACT 1900 \(ACT\)](#).

INDECENT ASSAULT

Where unwanted physical contact is of a sexual nature there is a specific criminal offence of "indecent assault" in all Australian Jurisdictions:

- (i) [Victoria](#): indecent assault is a criminal offence punishable by a maximum of 10 years imprisonment: [SECTION 39 OF THE CRIMES ACT 1958 \(VIC\)](#).
- (ii) [Western Australia](#): indecent assault is a criminal offence punishable by imprisonment for 5 years or if the offender is convicted summarily, imprisonment for 2 years and a \$24000 fine: [SECTION 323 OF THE CRIMINAL CODE COMPILATION ACT 1913 \(WA\)](#).
- (iii) [Northern Territory](#): indecent assault is a criminal offence punishable by imprisonment for 5 years or if the offender is convicted summarily, to imprisonment for 2 years: [SECTION 188\(2\)\(K\) OF THE CRIMINAL CODE \(NT\)](#).
- (iv) [New South Wales](#): any person who assaults another person and who commits an act of indecency "on or in the presence of the other person" is guilty of indecent assault and liable to imprisonment for 5 years: [SECTION 61L OF THE CRIMES ACT 1900 \(NSW\)](#).
- (v) [Queensland](#): any person who unlawfully assaults another person or procures the person to witness an act of gross indecency is guilty of

indecent assault and liable to imprisonment for a maximum of 10 years: [SECTION 352\(1\)\(A\) OF THE CRIMINAL CODE ACT 1899 \(QLD\)](#).

- (vi) **South Australia:** any person who indecently assaults another person is guilty of indecent assault and a “basic offence” (such as groping) and is liable to imprisonment for a maximum of 8 years: [SECTION 56\(1\) OF THE CRIMINAL LAW CONSOLIDATION ACT 1935 \(SA\)](#).
- (vii) **Australia Capital Territory:** any person who assaults, or threatens to inflict grievous or actual bodily harm on, another person with intent to commit an act of indecency on, or in the presence of, that other person, or a third person who is present or nearby, is guilty of an “act of indecency in the third degree” and is liable to imprisonment for a maximum of 10 years: [SECTION 59 CRIMES ACT 1900 \(ACT\)](#).
- (viii) **Tasmania:** indent assault is a criminal offence under [SECTION 127 OF THE CRIMINAL CODE ACT 1924 \(TAS\)](#).

Examples of indecent assault include:

- where a person touches you inappropriately without your consent such as; groping, kissing or placing their hands under your shirt;
- where a person forces you forces you to touch their genitals; or
- where a person forces you to witness them conducting an indecent act (such as masturbating), without your consent.

In certain circumstances, the victim of an assault may sue the perpetrator for damages (monetary compensation) in a civil action. A civil action can be commenced irrespective of whether or not the police bring criminal charges.

(c) **Public masturbation?**

Public masturbation is a criminal offence in all Australian Jurisdictions and can be dealt with as:

- (i) *“indecent exposure”* or *“obscene exposure”*: for example, in New South Wales a person who engages in public masturbation will be charged with obscene exposure under [SECTION 5 THE SUMMARY OFFENCES ACT 1988 \(NSW\)](#). The maximum penalty is \$1100 or imprisonment for 6 months; or
- (ii) *“indecent behaviour”*: for example, in South Australia, a person who engages in public masturbation will be charged with indecent behaviour under [SECTION 23 OF THE SUMMARY OFFENCES ACT 1953 \(SA\)](#). The maximum penalty is \$1250 or imprisonment for 3 months.

(d) **Public exposure?**

Indecent exposure in a public place is a summary (minor) criminal offence in all Australian Jurisdictions. For example:

- (i) In the [Australian Capital Territory](#) it is a criminal offence for a person to offend *“against indecency by the exposure of his or her person in a public*

place". The maximum penalty is \$2800, imprisonment for 1 year, or both: [SECTION 393 OF THE CRIMES ACT 1900 \(ACT\)](#).

- (ii) In [Queensland](#) it is a criminal offence for a person to "*wilfully expose his or her genitals*" in a public place, or so close to a public place that he or she may be seen from the public place, without a reasonable excuse. The maximum penalty is \$220 or, if the offence involves aggravation, \$4400 or imprisonment for 1 year: [SECTION 9 OF THE SUMMARY OFFENCES ACT 2005 \(QLD\)](#).
- (iii) In [New South Wales](#) it is a criminal offence for a person to "*wilfully and obscenely expose his or her person*" in or within view from a public place. This includes public masturbation. The maximum penalty is \$1100 or imprisonment for six months: [SECTION 5 OF THE SUMMARY OFFENCES ACT 1988 \(NSW\)](#).
- (iv) In the [Northern Territory](#) it is a criminal offence for a person to "*offend against indecency by the exposure of his person in any street or public place, or in the view thereof.*" The penalty is \$2000 or imprisonment for 6 months, or both: [SECTION 50 OF THE SUMMARY OFFENCES ACT \(NT\)](#).
- (v) In [Victoria](#) it is a criminal offence for a person to "*wilfully and obscenely expose the genital area or his or her body in, or within the view of, a public place*". The maximum penalty is imprisonment for 2 years: [SECTION 19 OF THE SUMMARY OFFENCES ACT 1966 \(VIC\)](#).
- (vi) In [Western Australia](#) indecent exposure in a public place does not, in and of itself, constitute a distinct criminal offence. Instead, it falls within the offence of "*disorderly behaviour in public*" which includes behaving in an "*insulting, offensive or threatening manner*" in a public place. This would include indecent exposure. The penalty is a \$6000 fine: [SECTION 74A OF THE CRIMINAL CODE COMPILATION ACT 1913 \(WA\)](#).
- (vii) In [South Australia](#) indecent exposure in a public place does not, in and of itself, constitute a distinct criminal offence. Instead, it falls within the offence of "*indecent behaviour*" which includes behaving in an "*indecent manner*" in a public place or while visible from a public place. The maximum penalty is \$1250 or imprisonment for 3 months: [SECTION 23 OF THE SUMMARY OFFENCES ACT 1953 \(SA\)](#).
- (viii) In [Tasmania](#) indecent exposure in a public place does not, in and of itself, constitute a distinct criminal offence. Instead, it falls within the offence of falls within the offence of "*pubic annoyance*" which includes behaving in a "*violent, riotous, offensive, or indecent manner*" in a public place. The maximum penalty is \$390 or imprisonment of a maximum of 3 months: [SECTION 13 OF THE POLICE OFFENCES ACT 1935 \(TAS\)](#).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Street harassment which is a criminal offence may be reported to the police in the Australian Jurisdiction in which the harassment took place.

Emergency services: 000

The emergency services number across Australia is 000. This should be used to report life-threatening incidents of street harassment, for example, where serious injury is threatened.

It is an offence to misuse the emergency services number.

Police Assistance Line: 131 444

Most incidents of street harassment will be reported to the Police Assistance Line on 131 444 which operates in every Australian Jurisdiction. If you are a victim of a crime (other than an emergency situation) you should contact the Police Assistance Line. Phoning 131 444 allows you to report crime over the phone. Once your report is completed by a customer service representative, your information is immediately available to your local police. Incidents of public exposure, public masturbation, non-life threatening verbal abuse or groping or unwanted physical contact should be reported to this number.

If the crime you wish to report cannot be dealt with over the phone due to its serious nature, the operator will assist you by advising where you can go to make the report, or by arranging for police to come and see you. This may occur in situations of more serious street harassment, such as groping or assault.

Crime Stoppers: 1800 333 000 or via the Crime Stoppers website [🔗](#)

Crime Stoppers is a telephone hotline for reporting information about any criminal or suspicious activity. Callers have the right to remain anonymous at all times and are known only by a unique code number. The police consider the right to anonymity to be vitally important in encouraging people to report crime. Calls made to this number are not recorded or traced and rewards may be payable for any information which helps to solve a crime.

Complaints to 000, 131 444 or the local police station may all be made anonymously. However, if a formal complaint is lodged and the matter goes to court, the complainant cannot remain anonymous and may be required to appear in court.

For further information about when to call "000", "131 400" or Crime Stoppers visit: Western Australia Police – About calling 000 and 131 444 [🔗](#)

Complainants should bear in mind that, in practice, "one-off" incidents of minor street harassment, such as using offensive language in public which is not threatening, will often not be investigated by the police.

Furthermore, in practice, police will assess complaints of street harassment bearing in mind the severity and other surrounding circumstances, and will deal with complaints in

order of priority. Indecent exposure, public masturbation and verbal threats of physical harm or unwanted physical contact are treated with higher priority than offensive language.

There are no specific hotlines which may be used to make complaints in relation to street harassment.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The police will complete a police report either over the phone, or in person at the local police station. All reports are allocated a report number.

Police will usually wish to take a statement from the complainant.

Details of complaints which are not formally reported and therefore, are not allocated a report number, are retained in an “intelligence log” which is a database mainlined by the police containing information given to the police. Information in an intelligence log is retained for 7 years.

In all Australian Jurisdictions, convictions for relatively some summary (minor) offences are “spent” or wiped after a particular period of crime-free behaviour. Generally, once a conviction is spent, the person is not required to disclose information concerning the conviction and the conviction does not form part of the person’s criminal history. For example:

- (i) In [South Australia](#) a conviction that results in either no prison sentence, or a prison sentence for 12 months or less, generally becomes spent after 10 years from the date of conviction if the person is not convicted of another offence: [SPENT CONVICTIONS ACT 2009 \(SA\)](#).
- (ii) In [New South Wales](#) a conviction that results in a prison sentence of 6 months or less generally becomes spent after 10 years from the date of conviction if the person is not convicted of an offence punishable by imprisonment: [CRIMINAL RECORDS ACT 1991 \(NSW\)](#).
- (iii) In [Queensland](#) a conviction for a summary offence is spent after 5 years from the date of conviction if the person is not convicted of another offence: [CRIMINAL LAW \(REHABILITATION OF OFFENDERS\) ACT 1986 \(QLD\)](#).

In some Australian Jurisdictions, such as Queensland, indictable (serious offences) are also capable of becoming spent.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

No specific policies concerning street harassment have been put in place in Australia.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No. As indicated at sections 1 and 2 above, street harassment laws do not vary significantly between the Australian Jurisdictions.

In essence, the same kinds of street harassment are considered criminal offences and similar penalties apply.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No, there is nothing to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

It is difficult to say with certainty precisely how common street harassment is across Australia, the percentage of complaints that go to court, the percentage of cases that result in conviction and the punishment imposed.

For the type of punishment that may be imposed, see sections 1 and 2 above.

Many commentators have argued that the offences of offensive language and offensive behaviour are “*selectively enforced*” and that that a high number of people charged and convicted with these offences are from marginalised groups and people with a mental illness, and that many charges are for conduct directed at a police officer.

Having said that, some police guidelines indicate that less serious incidents of street harassment should be dealt with differently where the alleged perpetrator suffers from a mental illness or is otherwise mentally incapacitated.

For example, Chapter 14 of the Queensland Police Service’s “*Operational Procedures Manual*” [🔗](#) dated July 2013 provides that where a person alleged of having committed a public nuisance offence (which is defined in section 6 of the Summary Offences Act 2005 (QLD) to include the use of offensive, obscene, indecent or abusive language in a public place) has a special need, such as a mental illness or impaired capacity, police should use their discretion and consider alternatives to issuing an infringement notice or commencing criminal proceedings against the person.

BELGIUM

LEGAL CONTACT:

Edith Van Lishout, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

A number of actions and various behaviors can constitute street harassment.

First of all, any indecent exposure or immoral offence is against the law. In Dutch, this is called “*openbare zedenschennis*”. To be unlawful, it has to be an assault of good morals, the action or behaviour has to offend the public decency. It can be a gesture, an act or a deed (e.g. a man showing his genitals to women that are walking in the park), as well as an attitude.

Secondly, harassment can consist of an indecent assault (“*aanranding van de eerbaarheid*”) or rape (“*verkrachting*”): an actual physical harassment is required, so words, proposals and gestures will not constitute indecent assault (e.g. touching someone’s breasts, even over clothes, without their permission). On the other hand, no actual physical contact between the harasser and the victim is required. When the harasser for example forces the victim to take off her clothes for sexual motives, it can be an indecent assault. Rape implies a penetration.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Indecent assault (or immoral offence) by the dissemination of obscenities by words is punishable. It can be singing, reading, reciting, performing or expressing obscenities, in public gatherings or places.

(b) Groping/unwanted physical conduct?

Groping and unwanted physical conduct can be indecent assault or indecent exposure.

(c) Public masturbation?

Public masturbation is prohibited, as it is an assault of good morals that can offend the public decency.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

In Belgium, there are several options to report a crime. The most common one is to the police, who will investigate the crime. A more drastic option is to file a complaint with the examining magistrate. Both the options can be towards an identified or an unidentified offender. For the latter, a sum of money needs to be paid by the complainer.

The victim of the crime can make an appeal to a service of aid to victims, the so called “*slachtofferhulp*”. These specialised services are free. The police will always provide more details and refer a victim to these services of aid when requested.

There is also a more general centre that provides help to people in need, a.o. victims of a crime, the so called “**CAW**”.

4 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

In Belgium, there is a specific system of fining people that cause trouble, mainly in public places, with so called municipal administrative penalties ([Gemeentelijke Administratieve Sancties](#) of “*GAS-boetes*”). Since June 12, 2013, the city of Brussels can impose such a fine for sexual harassment. Within the first three months, already 69 fines were imposed for sexual insults such as sexual remarks towards women and gay bashing. A fine up to 250 EURO can be imposed.

5 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

The criminal code is effective in the whole country. Therefore, all penalty clauses are equally applicable in each city.

The municipal administrative penalties however are adopted by police regulations. These are local, it might be different in different cities.

6 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No.

CANADA

LEGAL CONTACT:

Stefania Zilinskas, *Blake, Cassels & Graydon LLP*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

GENERAL

Street harassment, defined to mean unwelcome words and actions by unknown persons in public places which are motivated by gender and invade a person's physical and emotional space in a disrespectful, creepy, startling, scary or insulting way, is not, as such, against the law in Canada. However, some areas of Canadian criminal law, as set out in the [CRIMINAL CODE, RSC 1985, C C-46 \("CRIMINAL CODE"\)](#), may touch on and prohibit some types of street harassment. For example, under the criminal harassment provisions of the Criminal Code, it is illegal to engage in certain types of harassing conduct which causes a person to fear for their safety or the safety of someone they know.

Furthermore, some types of municipal by-laws, the penalties for an infraction of which is usually a nominal monetary fine, may also touch on and prohibit some types of street harassment in particular contexts and situations. For example, certain municipalities have by-laws prohibiting specific types of harassment in public parks or when riding on public transit and prohibiting nuisances or noise disturbances on city streets. The relevant criminal provisions and examples of the relevant municipal by-laws are outlined below.

FEDERAL

Criminal harassment is prohibited under the [CANADIAN CRIMINAL CODE](#). The Criminal Code provides:

264.

- (1) No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes another person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.
- (2) The prohibited conduct in subsection (1) consists of:
 - (a) repeatedly following from place to place the other person or anyone known to them;
 - (b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
 - (c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or
 - (d) engaging in threatening conduct directed at the other person or any member of their family.

Harassment has been defined by the Canadian courts as the state of being “*tormented, troubled, worried, continually or chronically, plagued, bedevilled and badgered.*”

There are four elements that must be met in order for conduct to amount to criminal harassment: (i) the target must feel harassed by the conduct; (ii) the perpetrator of the conduct must know or ought to know that the target feels harassed; (iii) the perpetrator’s conduct must be one of the acts listed in the section, including repeatedly following the target, repeatedly communicating with the target, besetting or watching places where the target frequents, or threatening the target or someone the target knows; (iv) lastly, the target of the conduct must have a reasonable fear for their safety or the safety of someone they know.

The most likely way that an act of street harassment could be considered criminal harassment is if the behaviour of the perpetrator constituted “*threatening conduct*” Threatening conduct has been defined by Canadian courts as conduct that intimidates and is designed to make the target fearful. A single act has been found by Canadian courts to be sufficient to constitute threatening conduct.

Example: In *R v Kohl*¹⁵, the accused jumped out from behind bushes to block a stranger jogging in a residential neighbourhood at night. The accused then chased the stranger to a house and stared at her while she waited for someone to open the door to let her in. In this case, the accused was convicted of criminal harassment even though there was no prior contact between the individuals, and even though the conduct occurred over a short period of time.

The majority of Canadian cases involving criminal harassment involve repeated contact between the accused and the complainant. In many cases, the accused and the complainant had a previous romantic relationship. However, a prior relationship, prior contact or prior knowledge of the accused is not required in order for criminal harassment to be found.

Example: In *R v Kohl*¹⁶, the accused, who jumped out from behind bushes to block a stranger jogging in a residential neighbourhood at night, did not know the target of the harassment.

Conduct such as cat-calling or making unwanted comments does not amount to “*threatening conduct*” within the meaning of 264(2)(d).

Example: In *R v Burns*¹⁷, the accused was a police officer who, on the street, “wolf-whistled” at the complainant, said that she had a “nice butt” or “nice ass” and asked whether her pants had been “painted on.” The Ontario Court of Appeal overturned a conviction for criminal harassment on the basis that the conduct did not amount to threatening conduct within the meaning of s 264(2)(d) although it was “*inappropriate and unwanted*” and made the complainant feel “*justifiably...upset and scared*”.

¹⁵ *R v Kohl*, 2009 ONCA 100, [2009] O.J. No. 372.

¹⁶ *Ibid.*

¹⁷ *R v Burns*, 2008 ONCA 6, 77 WCB (2d) 402.

Courts will consider the following list of factors in determining whether the conduct of the perpetrator amounted to threatening conduct:

- (i) [Did the conduct occur in a public area?](#) If so, the courts will be less likely to find that conduct amounted to threatening conduct.
- (ii) [Did the accused conceal his or her identity?](#) If so, the courts will be more likely to find that conduct amounted to threatening conduct.
- (iii) [Was the conduct brief?](#) If so, the courts will be less likely to find that conduct amounted to threatening conduct.
- (iv) [Was the conduct persistent, repeated or continuous?](#) If so, the courts will be more likely to find that the conduct amounted to threatening conduct.
- (v) [Was there evidence of threatening gestures and eye contact?](#) If so, the courts will be more likely to find that the conduct amounted to threatening conduct.
- (vi) [Was there a background of a previous violent or negative relationship?](#) If so, the courts will be more likely to find that the conduct amounted to threatening conduct.

Causing a disturbance in or near a public place is prohibited under the Canadian Criminal Code. The Criminal Code provides:

- 175. (1)** Everyone who
- (a) not being in a dwelling-house, causes a disturbance in or near a public place,
 - (i) by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,
 - (ii) by being drunk, or
 - (iii) by impeding or molesting other persons,
 - (b) openly exposes or exhibits an indecent exhibition in a public place,
 - (c) loiters in a public place and in any way obstructs persons who are in that place, or
 - (d) disturbs the peace and quiet of the occupants of a dwelling-house by discharging firearms or by other disorderly conduct in a public place or who, not being an occupant of a dwelling-house comprised in a particular building or structure, disturbs the peace and quiet of the occupants of a dwelling-house comprised in the building or structure by discharging firearms or by other disorderly conduct in any part of a building or structure to which, at the time of such conduct, the occupants of two or more dwelling-houses comprised in the building or structure have access as of right or by invitation, express or implied, is guilty of an offence punishable on summary conviction.

Street harassment could potentially be illegal under [SECTION 175\(1\)\(A\) OF THE CANADIAN CRIMINAL CODE](#) depending on the facts of each case. In order for harassment to constitute an offence under this section of the Criminal Code, two elements must

be met: (1) the perpetrator must engage in one of the listed acts; which (2) causes a disturbance in or near a public place.

Generally, street harassment involving shouting, swearing, impeding, molesting or using obscene language will trigger the first element of the offence. To trigger the second element of the offence, the act must also cause a disturbance in or near a public place. An emotional disturbance is not sufficient to meet this requirement; someone must be affected or disturbed by the activity in an external way such that their ordinary and customary use of the public space is altered. Such a disturbance may consist of something as simple as being distracted from one's work and will exist even where only one person is disturbed.

Example: In *R v Julian*¹⁸, the accused was charged with the offence of causing a disturbance by conducting a fight on the sidewalk. The complainant, who has been jogging on the sidewalk, was unable to continue with his run and would have had to proceed on the street. Instead, the complainant decided to stop running and call the police. The accused was arrested and convicted of the offence of causing a disturbance.

It is possible that street harassment that interferes with the ordinary and customary use of a public place by the target of such harassment (i.e. street harassment which causes the target to stop visiting a certain public place) may be illegal under this section of the [CANADIAN CRIMINAL CODE](#).

(a) Alberta

Street harassment is not against the law in Alberta. However, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Calgary:** Under the [CITY OF CALGARY, BY-LAW NO 4M81, BEING A BYLAW OF THE CITY OF CALGARY TO REGULATE AND CONTROL THE CONDUCT OF PASSENGERS ON PUBLIC VEHICLES \(16 FEBRUARY 1981\)](#) [↗](#), it is an offence to engage in an activity which would molest or interfere with the comfort, convenience or quiet use and enjoyment of the transit system, or to behave in a manner that would cause a safety concern. A contravention of this by-law may result in a fine of between \$200 and \$500.
- (i) **Edmonton:** Under the [CITY OF EDMONTON, BY-LAW NO 14614, PUBLIC PLACES BYLAW \(22 MAY 2007\)](#) [↗](#), it is an offence to repeatedly harass (defined to include tormenting, troubling, worrying, plaguing or badgering) a person under the age of 18. A contravention of this by-law may result in a fine of between \$250 and \$10,000 or jail time not exceeding six months.

Under the [CITY OF EDMONTON, BY-LAW NO 8353, CONDUCT OF TRANSIT PASSENGERS \(10 MARCH 1987\)](#) [↗](#), it is an offence to molest or interfere with the comfort or convenience of another person on transit property. A contravention of this by-law may result in a fine of between \$250 and \$10,000 or jail time not exceeding six months.

18 *R v Julian*, 2004 CarswellOnt 4123, [2004] ONCJ 226

(b) British Columbia

- (i) **Burnaby:** The [DISTRICT OF BURNABY, BYLAW NO 7332, BURNABY NOISE OR SOUND ABATEMENT BYLAW 1979 \(13 APRIL 1979\)](#) [↗](#) prohibits the making of *“any noise or sound in or on a highway or elsewhere in the Municipality which disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of persons in the vicinity.”* Violators are subject to a maximum fine of \$2,000 and, if the fine is not paid, to imprisonment for 30 days.
- (ii) **Surrey:** Under the [CITY OF EDMONTON, BY-LAW NO 14614, PUBLIC PLACES BYLAW \(22 MAY 2007\)](#) [↗](#), it is an offence to repeatedly harass (defined to include tormenting, troubling, worrying, plaguing or badgering) a person under the age of 18. A contravention of this by-law may result in a fine of between \$250 and \$10,000 or jail time not exceeding six months.
- (iii) **Vancouver:** Under the [CITY OF VANCOUVER, BY-LAW NO 6555, NOISE CONTROL BY-LAW \(12 SEPTEMBER 1989\)](#) [↗](#), people are prohibited from making, causing or permitting to be made or caused, *“any noise or sounds in a street, park or similar public place which disturbs or tends to disturb unreasonable the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity.”* Violators of the bylaw are liable to fines ranging from \$250 to \$10,000.
- (iv) **Victoria:** Under the [CITY OF VICTORIA, BY-LAW NO 03-12, NOISE BYLAW \(25 MARCH, 2004\)](#) [↗](#), it is an offence to make or cause *“a noise or sound in a street, park, plaza or similar public place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity.”* The bylaw also prohibits shouting *“in at or on streets, parks”* and other public places. Violations of the bylaw are punishable by a minimum penalty of \$200.

The [CITY OF VICTORIA, BY-LAW NO 08-059, PARKS REGULATION BYLAW \(9 AUGUST 2007\)](#) [↗](#) prohibits behaving *“in a disorderly or offensive manner”* in a park, and provides for a minimum fine of \$85 for violations of the prohibition.

(c) Manitoba

Street harassment is not against the law in Manitoba. However, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Brandon:** Under the [CITY OF BRANDON, BY-LAW NO 5806/81/90, NUISANCE BY-LAW \(26 AUGUST 1991\)](#) [↗](#), it is an offence to make noise which is likely to annoy, disturb, injure, engender or detract from the peace, health or safety of any other person, including any loud, blasphemous, abusive, obscene, or insulting language. A contravention of this by-law may result in a fine not exceeding \$1,000 or imprisonment for a term not exceeding 90 days.

Under the [CITY OF BRANDON, BY-LAW NO 5268/37/84, PARKS AND RECREATION BY-LAW \(16 JULY 1984\)](#) [↗](#), it is an offence to disturb or threaten to disturb the orderly and peaceful enjoyment of a public park by other persons. A contravention of this by-law may result in a fine not exceeding \$1,000 or imprisonment for a term not exceeding six months or both.

- (ii) **Winnipeg:** Under the [CITY OF WINNIPEG, BY-LAW NO 7700/2000, OBSTRUCTIVE SOLICITATION BY-LAW \(20 SEPTEMBER 2000\)](#) [↗](#), it is an offence to verbally threaten or insult a pedestrian in the course of soliciting money. A contravention of this by-law may result in a fine of not more than \$1,000.

Under the [CITY OF WINNIPEG, BY-LAW NO 1/2008, NEIGHBOURHOOD LIVEABILITY BY-LAW \(23 JANUARY 2008\)](#) [↗](#), it is an offence to make noises or sounds which unreasonably disturb, injure or endanger the comfort, repose, health, peace or safety of a person. A contravention of this by-law may result in a fine of between \$50 and \$150.

Under the [CITY OF WINNIPEG, BY-LAW NO 85/2009, PARK BY-LAW \(1 JUNE 2009\)](#) [↗](#), it is an offence to disturb or threaten to disturb the enjoyment by other users of a public park. A contravention of this by-law may result in a fine of between \$400 and \$10,000.

Under the [CITY OF WINNIPEG, BY-LAW NO 1481/77, STREETS BY-LAW \(16 MARCH 1977\)](#) [↗](#), it is an offence to cause a nuisance in a street. A contravention of this by-law may result in a fine of not less than \$250.

(d) **New Brunswick**

Street harassment is not against the law in New Brunswick. However, a person may be fined under [GENERAL REGULATION 85-104 UNDER THE PARKS ACT, RSNB 2011 C 202](#), if they act in a provincial park in a manner that disturbs another person by disorderly conduct, loud or unnecessary noise, swearing or the use of obscene language.

Further, certain municipalities may have by-laws prohibiting certain types of street harassment:

- (i) **Fredericton:** Under the [CITY OF FREDERICTON, BY-LAW NO S-13, A BY-LAW RESPECTING DISTURBANCE BY NOISE \(22 AUGUST 2005\)](#) [↗](#), harassment that is likely to cause an annoyance or “*otherwise disturb the inhabitants of Fredericton*” may constitute an offence. A contravention of this by-law may result in a fine of between \$250 and \$500.
- (ii) **Moncton:** Under the [CITY OF MONCTON, BY-LAW NO H-102, A BY-LAW RELATING TO THE PREVENTION OF EXCESSIVE NOISES IN THE CITY OF MONCTON \(2 APRIL 2002\)](#) [↗](#), harassment that is “*likely to cause a public nuisance or otherwise disturb the inhabitants of the City of Moncton*” between the hours of 11:00 p.m. and 7:00 a.m may constitute an offence. A contravention of this by-law may result in a fine of between \$250 and \$1,070.
- (iii) **Saint John:** Under the [CITY OF SAINT JOHN, BY-LAW NO M-22, A BY-LAW RESPECTING THE PREVENTION OF EXCESSIVE NOISE IN THE CITY OF SAINT JOHN \(18 MAY 2005\)](#) [↗](#), it is an offence to disturb the peace and tranquility of the streets by “*yelling, shouting, hooting, or unreasonably loud whistling or singing at any time.*” A contravention of this by-law may result in a fine of between \$250 and \$1,070.

Under the [CITY OF SAINT JOHN, BY-LAW NO M-11, A BY-LAW RESPECTING PUBLIC BEACHES IN THE CITY OF SAINT JOHN \(5 JULY 2005\)](#) [↗](#), it is an

offence to use abusive, profane or offensive language or to annoy others on a public beach. A contravention of this by-law may result in a fine of between \$5 and \$50.

- (iv) Under the [CITY OF EDMONTON, BY-LAW NO 8353, CONDUCT OF TRANSIT PASSENGERS \(10 MARCH 1987\)](#) [↗](#), it is an offence to molest or interfere with the comfort or convenience of another person on transit property. A contravention of this by-law may result in a fine of between \$250 and \$10,000 or jail time not exceeding six months.

(e) Newfoundland and Labrador

In Newfoundland and Labrador, [THE HUMAN RIGHTS ACT, 2010, SNL 2010, C H-13.1](#) [↗](#) specifically prohibits harassment in “commercial units” and “establishments,” the definitions of which may include public places such as shopping malls, restaurants, etc. Harassment is defined as vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome. If a complaint to the Human Rights Commission is referred to a Board of Inquiry, the complaint will be heard before an adjudicator in a public hearing. The adjudicator can order the respondent to pay damages or other remedies to compensate the complainant.

The [PRIVACY ACT, RSNL 1990, C P-22](#) [↗](#) codifies the violation of individual privacy as a tort, and includes “harassing” as one of the acts that constitutes the tort. A civil claim may be brought in the Trial Division of the Supreme Court of Newfoundland and Labrador. The court may award damages depending on the severity of the violation.

The [PUBLIC LIBRARIES ACT, RSNL 1990, C P-40](#) [↗](#) creates an offence when someone who uses violent, abusive or obscene language in a library refuses to leave after being asked. The offender may be ordered to pay a fine between \$50 and \$500 and may lose their library privileges.

(f) Northwest Territories

- (i) Yellowknife: Under the [CITY OF YELLOWKNIFE, BYLAW NO 4284, PUBLIC TRANSIT BY-LAW \(22 SEPTEMBER 2003\)](#) [↗](#), the use of profane, insulting or obscene language, behaving in an indecent or offensive manner and molesting or wilfully interfering with the comfort or convenience of any other person on public transit or at public transit stops is prohibited. A contravention of this by-law can result in (i) a fine of not more than \$2,000 or imprisonment for not more than six months; (ii) refusal of service on public transit; or (iii) payment of a voluntary fine of \$75 prior to prosecution.

(g) Nova Scotia

Street harassment is not against the law in Nova Scotia. However, the [NOVA SCOTIA HUMAN RIGHTS ACT, RSNS 1989, C 214](#) [↗](#) makes it an offence to sexually harass any individual, or to harass an individual or group with respect to a prohibited ground of discrimination. Prohibited grounds include gender, race, and sexual orientation. Sexual harassment is defined as vexatious sexual conduct or comment that is known or ought

reasonably to be known to be unwelcome, a sexual solicitation or advance known or ought reasonably to be known to be unwelcome, or a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance. Harassment is defined as a course of vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome. Violations of the [HUMAN RIGHTS ACT](#) are punishable by a fine of up to \$500. Complaints can also be made to the Nova Scotia Human Rights Commission. Where a complaint is referred to a Board of Inquiry, the Board may order the respondent to pay damages.

Further, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Halifax:** Under the [HALIFAX REGIONAL MUNICIPALITY, BY-LAW NO N-300, RESPECTING NUISANCES \(18 AUGUST 2007\)](#) [↗](#), it is an offence to create a nuisance on any public street. Nuisance is defined as any activity or pastime which (i) obstructs any person or (ii) creates a disturbance. The offence is punishable by a fine of between \$50 and \$1,000.

(h) Nunavut

Street harassment is not against the law in Nunavut. However, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Iqaluit:** [THE CITY OF IQALUIT, BYLAW NO 599, NOISE BY-LAW \(28 SEPTEMBER 2004\)](#) [↗](#), prohibits yelling, shouting, hooting or whistling that disturbs the peace and tranquility of a residential area between the hours of 10 p.m. and 7 a.m. A contravention of this by-law may result in a fine ranging from \$125 to \$2,000, imprisonment for up to six months, or both.

(i) Ontario

Street harassment is not against the law in Ontario. However, under the [SAFE STREETS ACT, SO 1999, C.8](#), it is an offence to engage in aggressive solicitation, which includes instances when the aggressor threatens a victim, addresses a victim with abusive language or persistently solicits in a harassing manner following a negative response to the initial solicitation.

Further, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Brampton:** Under the [CITY OF BRAMPTON, BY-LAW NO 161-83, TO PROVIDE FOR THE MANAGEMENT, CONTROL REGULATIONS, MAINTENANCE AND USAGE OF ALL PARKLANDS AND WATER AREAS SITUATED WITHIN PARKLANDS AND PROPERTIES OWNED BY THE CORPORATION OF THE CITY OF BRAMPTON FOR PARK OR RECREATION PURPOSES \(25 MAY 1983\)](#) [↗](#), it is an offence to use in a public park abusive or insulting language, to engage in conduct that is detrimental to the safety and enjoyment of others of the parkland or to interfere with the enjoyment or use of a walkway by a pedestrian.

Under the [CITY OF BRAMPTON, BY-LAW NO 93-84, BY-LAW TO PROHIBIT AND REGULATE NOISE AND TO REPEAL BY-LAW 15-75 \(25 APRIL 1984\)](#) [↗](#), it is an offence to make noises likely to disturb inhabitants.

Under the [CITY OF BRAMPTON, BY-LAW NO 82-2008, BY-LAW TO REGULATE THE OPERATION AND CONTROL OF A PASSENGER TRANSPORTATION SYSTEM WITHIN THE CITY OF BRAMPTON \(9 APRIL 2008\)](#) [↗](#), it is an offence to disturb the privacy or comfort of any other person. The by-law also provides that a person may be refused board or be required to leave the public transit vehicle if they engage in activity that might endanger the health or safety of any other person or disturb the privacy or comfort of any other person, or if they conduct themselves in a disorderly, profane or boisterous manner.

- (ii) **Hamilton:** Under the [CITY OF HAMILTON, BY-LAW NO 01-219, TO MANAGE AND REGULATE MUNICIPAL PARKS \(18 SEPTEMBER 2001\)](#) [↗](#), it is an offence while in a park to engage in riotous, violent, threatening or illegal conduct or to use profane or abusive language, spy, accost, frighten, annoy or otherwise disturb other persons or to create a nuisance or in any way interfere with the peaceful enjoyment of the park by other persons.

Under the [CITY OF HAMILTON, BY-LAW NO 11-285, NOISE CONTROL BY-LAW \(30 NOVEMBER 2011\)](#) [↗](#), it is an offence to make noise that is unreasonable or that is likely to disturb inhabitants. A contravention of this by-law may result in a fine of not more than \$10,000.

- (iii) **Mississauga:** Under the [CITY OF MISSISSAUGA, BY-LAW NO 186-05, PARKS BY-LAW \(25 MAY 2005\)](#) [↗](#), it is an offence to engage in riotous, boisterous, violent, threatening or illegal activity or to engage in any activity that creates a nuisance or that interferes with the use and enjoyment of the park by other persons. A contravention of this by-law may result in a fine of not more than \$15,000.

- (iv) Under the [CITY OF MISSISSAUGA, BY-LAW NO 360-79, NOISE CONTROL \(28 JANUARY 1980\)](#) [↗](#), it is an offence to yell, shout, hoot and whistle in a residential area of quiet zone during quiet periods. A contravention of this by-law may result in a fine of not more than \$5,000.

Under the [CITY OF MISSISSAUGA, BY-LAW NO 785-80, NUISANCE TYPE NOISE BY-LAW \(15 OCTOBER 1980\)](#) [↗](#), it is an offence to make any unusual noise, such as crying or shouting or loud speaking, that is likely to disturb inhabitants. A contravention of this by-law may result in a fine of not more than \$5,000.

Under the [CITY OF MISSISSAUGA, BY-LAW NO 425-03, TRANSIT BY-LAW \(22 OCTOBER 2003\)](#) [↗](#), it is an offence to cause a disturbance, spit, conduct oneself in an indecent manner or to use profane, abusive, indecent, foul, insulting or obscene language on Mississauga transit property. A contravention of this by-law may result in a fine of \$305.

- (v) **Ottawa:** Under the [CITY OF OTTAWA, BY-LAW NO 2004-276, PARKS AND FACILITIES BY-LAW \(23 JUNE 2004\)](#) [↗](#), it is an offence to use loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behaviour in a park or to engage in any activity so as to interfere with or become a nuisance to the general public using the park. A contravention of this by-law may result in a fine of \$100.

Under the [CITY OF OTTAWA, BY-LAW NO 2004-253, NOISE BY-LAW \(9 JUNE 2004\)](#) [↗](#), it is an offence to cause any unusual noise or noise likely to

disturb the inhabitants of Ottawa. A contravention of this by-law may result in a fine of \$305.

Under the [CITY OF OTTAWA, BY-LAW NO 2007-268, TRANSIT BY-LAW \(13 JUNE 2007\)](#), it is an offence to use profane, indecent, abusive, foul, insulting or obscene language, to molest or wilfully interfere with the comfort or convenience of any other person, to assault or otherwise use threatening behaviour towards any other person or to cause a disturbance or nuisance by disorderly conduct. A contravention of this by-law may result in a fine of between \$125 and \$500.

- (vi) **Toronto:** Under the [CITY OF TORONTO, BY-LAW NO 854-2004, TO ADOPT A NEW CITY OF TORONTO MUNICIPAL CODE CHAPTER 608, PARKS, AND TO REPEAL VARIOUS BY-LAWS OF THE FORMER MUNICIPALITIES RELATING TO PARKS \(30 SEPTEMBER 2004\)](#), it is an offence to engage in riotous, boisterous, violent, threatening or illegal conduct, or to use profane or abusive language or to create a nuisance by loitering, spying, accosting, frightening, annoying or otherwise disturbing other persons. A contravention of this by-law may result in a fine of \$205.

Under the [CITY OF TORONTO, BY-LAW NO 111-2003, TO REPEAL BY-LAW NO. 476-2002 AND TO RE-ENACT CITY OF TORONTO MUNICIPAL CODE CHAPTER 591 \(7 FEBRUARY 2003\)](#), it is an offence to make noise which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of Toronto. A contravention of this by-law may result in a fine of \$305.

Under the [TORONTO TRANSIT COMMISSION, BY-LAW NO 1, A BY-LAW REGULATING THE USE OF THE TORONTO TRANSIT COMMISSION LOCAL PASSENGER TRANSPORTATION SYSTEM \(21 JANUARY 2009\)](#), it is an offence to cause a disturbance or act contrary to the public peace on TTC property. This prohibition includes but is not limited to the following conduct: using profane, insulting or obscene language or gestures; behaving in an indecent or offensive manner; or behaving in a manner which would interfere with the ordinary enjoyment of persons using the transit system. A person who engages in any of these behaviours is liable to receive a ticket for the amount of \$235.

(j) **Prince Edward Island**

Street harassment is not against the law in Prince Edward Island. However, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Charlottetown:** Under the [CITY OF CHARLOTTETOWN, A BY-LAW OF THE CITY OF CHARLOTTETOWN WITH RESPECT TO NOISE AND PUBLIC NUISANCE, PURSUANT TO THE PROVISIONS OF SECTION 64 OF THE CHARLOTTETOWN AREA MUNICIPALITIES ACT, R.S.P.E.I., 1988, CAP. C-4.1 \(10 MAY 2006\)](#), a person is guilty of disorderly conduct if he or she creates a nuisance by (a) screaming, shouting, yelling, fighting or initiating any other disruptive noise, commotion or action on public streets or by (b) addressing profane obscene or abusive language or threats of violence to any person present so as to create the nuisance. The offence is punishable by a fine between \$200 and \$500 for a first time offence, and \$400 and \$1000 for any subsequent offence.

(k) Quebec

Street harassment is not against the law in Quebec. However, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Laval:** Under the [CITY OF LAVAL, BY-LAW NO L-12085, CONCERNANT LE BRUIT COMMUNAUTAIRE ET REMPLAÇANT LE RÈGLEMENT L-8554 \(8 JULY 2013\)](#) [↗](#), it is an offence for a person to create a noise above a certain decibel level depending on the time of day or night.

Under the [CITY OF LAVAL, BY-LAW NO L-4510, CONCERNANT L'ORDRE, LA SECURITÉ AINSI QUE LES HEURES D'OUVERTURES ET DE FERMETURE DES PARCS MUNICIPAUX \(6 AUGUST 1979\)](#) [↗](#), in a municipal park it an offence to (i) to disturb the public peace by yelling, whistling, singing, or insulting others; (ii) to disturb the tranquility of others by embarrassing them or making them feel uncomfortable by any means; and (iii) to commit, attempt to commit or be the cause of an indecent or immoral act or an act that is contrary to public values. A contravention of this by-law may result in a fine of between \$100 and \$1,000.

- (ii) **Montreal:** Under the [CITY OF MONTREAL, REVISED BY-LAW RBCM C B-3, BY-LAW CONCERNING NOISE](#) [↗](#), it is an offence to create a noise that could be disruptive to peace and good order, and specifically noise *“resulting from cries, clamours, singing, altercations or cursing and any other form of uproar.”* Each borough in the city of Montreal passes ordinances that can define the levels of noise that are prohibited and the times of day during which certain noise levels are unacceptable. A person who contravenes this by-law may be liable to a fine of between \$100 and \$300 for a first offence, between \$300 and \$500 for a second offence and between \$500 and \$1,000 for subsequent offences.

- (iii) **Quebec (city):** Under the [CITY OF QUEBEC, REVISED BY-LAW RVQ 1091, RÈGLEMENT SUR LA PAIX ET LE BON ORDRE \(19 MARCH 2009\)](#) [↗](#), it is an offence to make any sort of noise or disturbance or behave in a manner that disturbs the peace in a public place or to insult or injure a person in a public space. A contravention of this by-law could result in a fine of between \$300 and \$1,000.

Under the [CITY OF QUEBEC, BY-LAW RVQ 978, RÈGLEMENT SUR LE BRUIT \(7 JULY 2005\)](#) [↗](#), it is an offence to produce excessive noise that disturbs the peace and tranquility of others in a public space where that noise exceeds the normal level of noise in that vicinity. A contravention may result in a fine of between \$150 and \$1,000.

(l) Saskatchewan

Street harassment is not against the law in Saskatchewan. However, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Prince Albert:** Under the [CITY OF PRINCE ALBERT, BY-LAW NO 7 OF 2003, NOISE BYLAW \(5 MAY 2003\)](#) [↗](#), it is an offence to make any noise or sound on private or public property that unreasonably disturbs, or is likely to

disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity. A contravention of this by-law may result in a fine in an amount not exceeding \$2,000.

Under the [CITY OF PRINCE ALBERT, BY-LAW NO 8 OF 2007, OBSTRUCTIVE SOLICITATION BYLAW \(24 SEPTEMBER 2007\)](#), it is an offence to, in the course of solicitation for money, obstruct the passage of, to continue or solicit or to verbally threaten or insult persons who are solicited. A contravention of this by-law may result in a fine in an amount not exceeding \$2,000.

- (ii) **Regina:** Under the [CITY OF REGINA, BY-LAW NO 6980, NOISE ABATEMENT BYLAW \(15 JUNE 1981\)](#), it is an offence to make any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of people in the city. A contravention of this by-law may result in a fine in an amount not exceeding \$2,000.

Under the [CITY OF REGINA, BY-LAW NO 2004-27, PARKS & OPEN SPACE BYLAW \(22 MARCH 2004\)](#), it is an offence to disturb, harass or interfere with a person in a public park. A contravention of this by-law may result in a fine in an amount not exceeding \$2,000.

- (iii) **Saskatoon:** Under the [CITY OF SASKATOON, BY-LAW NO 7850, PANHANDLING BYLAW \(10 MAY 1999\)](#), it is an offence to panhandle in a coercive manner, defined to mean following a person, persisting in solicitation, touching a person, obstructing a person or using obscene or abusive language. A contravention of this by-law may result in a fine between \$100 and not more than \$10,000.

Under the [CITY OF SASKATOON, BY-LAW NO 2954, STREET USE BYLAW \(24 JUNE 1946\)](#), it is an offence to obstruct the free use of streets and entrances to businesses so as to subject the public to disturbance or annoyance. A contravention of this by-law may result in a fine not exceeding \$10,000.

Under the [CITY OF SASKATOON, BY-LAW NO 8244, THE NOISE BYLAW, 2003 \(6 OCTOBER 2003\)](#), it is an offence to make any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of people in the city. A contravention of this by-law may result in a fine between \$100 and \$10,000.

Under the [CITY OF SASKATOON, BY-LAW NO 7767, THE RECREATION FACILITIES AND PARKS USAGE BYLAW, 1998 \(13 JULY 1998\)](#), it is an offence for a person to conduct themselves in a disorderly manner or to make any loud, unnecessary or unusual noise in a park or recreation facility. A contravention of this by-law may result in a fine of not more than \$2,000.

(m) Yukon

Under the [PARKS AND LAND CERTAINTY ACT, RSY 2002, C 165](#) [↗](#), the creation of a “public nuisance” in parks is against the law in the Yukon territories. Under this law, a person may not obstruct another person’s use of a park or scream, shout, insult or use obscene language in a park. A contravention of this law may result in a fine of not more than \$50,000 or imprisonment for not more than two years, or both.

Further, certain municipalities may have by-laws prohibiting certain types of street harassment.

- (i) **Whitehorse:** Under the [THE CITY OF WHITEHORSE, BYLAW NO 92-15, PARKS AND RECREATION AREA BYLAW \(11 MAY 1992\)](#) [↗](#), behaviour obstructing the use or enjoyment by another person of the park or recreation area is prohibited. A person in contravention of this by-law may be liable to a fine of not more than \$500, a term of imprisonment not exceeding six months, or both.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:**(a) Verbal harassment?****FEDERALLY**

Some instances of verbal harassment are outlawed. Specifically, the [CRIMINAL CODE](#) makes it an offence to utter certain threats. The Criminal Code provides:

- 264.1 (1)** Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat
- (a) to cause death or bodily harm to any person;
 - (b) to burn, destroy or damage real or personal property; or
 - (c) to kill, poison or injure a bird or animal that is the property of a person.

If the verbal harassment constitutes a threat to cause bodily harm or death, it will come within the prohibition in s 264.1. Bodily harm is defined in s 2 of the [CRIMINAL CODE](#) as “*any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature.*”

An explicit threat of rape can constitute threatening to cause serious bodily harm within the meaning of s 264.1.

Example: In *R v McCraw*¹⁹, the accused had written anonymous letters to football cheerleaders in which he said he would have sex with them, “even if I have to rape you.” It was not contested that the letters were threatening, but the defence maintained that did not threaten serious bodily harm (at the relevant time, the provision forbade threats to cause “*serious bodily harm*”). The Supreme Court, determining that serious bodily harm meant “*any hurt or injury, whether physical or psychological, that interferes in substantial*

¹⁹ *R v McCraw*, [1991] 3 SCR 72, 66 CCC (3d) 517

way with the physical or psychological integrity, health or well-being of the complainant,” held that “there can be no conclusion other than that rape can cause serious bodily harm” and dismissed the accused’s appeal. The subsequent change in the wording of s 264.1 lowers the requirement – no longer must the threatened bodily harm be serious – and so it is clear that threatening rape will constitute threatening bodily harm.

Further, the **CRIMINAL CODE** outlaws instances of criminal harassment, which includes engaging in threatening conduct. The Criminal Code provides:

- 264.1 (1)** No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes another person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.
- (2)** The prohibited conduct in subsection (1) consists of:
- (a)** repeatedly following from place to place the other person or anyone known to them;
 - (b)** repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
 - (c)** besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or
 - (d) engaging in threatening conduct directly at the other person or any member of their family** [emphasis added].

Conduct such as cat-calling or making unwanted comments, however, does not amount to “threatening conduct” within the meaning of 264(2)(d).

Example: In *R v Burns*²⁰, the accused was a police officer who, on the street, “wolf-whistled” at the complainant, said that she had a “nice butt” or “nice ass” and asked whether her pants had been “painted on.” The Ontario Court of Appeal overturned a conviction for criminal harassment on the basis that the appellant’s conduct was “inappropriate and unwanted” and the complainant “justifiably felt upset and scared by” the conduct, it did not amount to threatening conduct within the meaning of s 264(2)(d).

PROVINCIAL/MUNICIPALLY

A number of municipal by-laws in Canada prohibit the use of abusive, violent, obscene or threatening language in certain contexts, specifically on public transit, in public libraries or in public parks or recreation facilities. Contraventions of such by-laws usually attract nominal monetary fines.

²⁰ *R v Burns*, 2008 ONCA 6, 77 WCB (2d) 402

(b) Gropping/unwanted physical conduct?**FEDERALLY**

Yes. Under the [CANADIAN CRIMINAL CODE](#) it is illegal to touch someone else without their consent. The Criminal Code provides:

265. (1) A person commits an assault when:
- (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
 - (b) he attempts or threatens, by an act or gesture, to apply force to another person, if he has, or causes that other person to believe upon reasonable grounds that he has, present ability to effect his purpose; or
 - (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

The unwanted touching does not have to be strong or powerful in order to constitute an assault. However, words alone, without a gesture, cannot constitute assault.

Sexual assault is an assault that satisfies one of the definitions in s. 265(1), that is committed in circumstances of a sexual nature and that violates the sexual integrity of the victim. When determining whether an assault is sexual assault, all of the circumstances surrounding the perpetrator's conduct will be relevant, including the body part touched, the nature of the contact, the situation in which the assault occurred and the words and gestures accompanying the assault.

Example: In *R v Wayne*²¹, leave to appeal to MBCA refused: 2004 MBCA 81, as the complainant was leaning into her car, the accused put his hand between her legs, grabbed her by one side of the buttocks and squeezed. The accused was convicted of sexual assault as this act amounted to a violation of the sexual integrity of the complainant.

Example: In *R v B(JA)*²², the accused pleaded guilty to three charges of sexual assault in relation to incidents of groping that occurred in the residence of the complainant, where she lived with her parents. The accused groped the complainant, rubbed the inside of her leg and her genital area while she was fully clothed; on another occasion, he touched her breasts and thighs through a blanket; on a third occasion, he slid his hands down her skirt and touched her breast. On all the first and third occasions, the complainant told him to stop or indicated she did not like it; on the second, she pretended to be asleep.

Example: In *R v Lorette*²³, the conduct at issue involved the accused "press[ing] against [the complainant] from behind" while the complainant was at a bank wicket. The judge concluded that the conduct at issue amounted to "common rather than sexual assault,"

²¹ *R v Wayne*, 2004 MBQB 53

²² *R v B(JA)*, 2012 NSSC 457, 324 NSR (2d) 43.

²³ *R v Lorette*, 2010 ONCJ 259, 2010 CarswellOnt, 4958.

but acquitted the accused on the basis of his mistaken belief that the complainant was his ex-girlfriend, who would have consented to the conduct.

PROVINCIAL/MUNICIPALLY

A number of municipal by-laws in Canada prohibit molestation or unwanted touching in certain contexts, specifically on public transit, in public libraries or in public parks or recreation facilities. Contraventions of such by-laws usually attract nominal monetary fines.

(c) Public masturbation?

FEDERALLY

Yes. Under the [CANADIAN CRIMINAL CODE](#) it is illegal to do an indecent act in a public place or in any place with the intent to insult or offend someone. The Criminal Code provides:

- 173. (1)** Everyone who wilfully does an indecent act in a public place in the presence of one or more persons, or in any place with intent to insult or offend any person,
- (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than two years; or
 - (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than six months.

Section 150 of the Criminal Code defines a public place to include *“any place to which the public have access as of right or by invitation, express or implied.”*

An act will be found to be indecent if the community in which the act took place would not tolerate the social harm caused by the act. Masturbation constitutes an indecent act.

Example: In *R v Gill*²⁴, the accused was masturbating in his car on a busy street in the presence of another driver next to whose vehicle he was at one point stopped. The court decided that this amounted to the wilful commission of an indecent act in the presence of another person.

Example: In *R v Burgar*²⁵, the accused was masturbating on the bank of a river and a witness testified that she saw him doing so from about 10 or 15 feet away. The accused looked directly at the witness, who yelled at him and then called the police. This was found to be a wilful commission of an indecent act in the presence of another person.

PROVINCIAL/MUNICIPALLY

A number of municipal by-laws in Canada prohibit behaving in an indecent or offensive manner in certain contexts, specifically on public transit, in public libraries or in public parks or recreation facilities. Contraventions of such by-laws usually attract nominal monetary fines.

²⁴ *R v Gill*, 2010 BCPC 256

²⁵ *R v Burgar*, 2005 BCSC 1709

(d) Public exposure?**FEDERALLY**

Yes. Under the **CANADIAN CRIMINAL CODE** it is illegal to do appear nude in a public place. The Criminal Code provides:

174. (1) Everyone who, without lawful excuse,
- (a) is nude in a public place, or
 - (b) is nude and exposed to public view while on public property, whether or not the property is his own;
- is guilty of an offence punishable on summary conviction.
- (2) For the purposes of this section, a person is nude who is so clad as to offend against public decency or order.
- (3) No proceedings shall be commenced under this section without the consent of the Attorney General.

Example: In *R v Berhe*²⁶, a family consisting of a mother, father and two daughters got off the subway in Toronto and took an escalator to the streetcar platform. On the escalator, a man attracted the parents' attention as he seemed to be attempting to get close to one of the daughters. While waiting on the streetcar platform, the man was holding a newspaper near waist level, but a gust of wind revealed that his pants zipper was open and his genitals were exposed. This was found to constitute a wilful commission of an indecent act in a public place in the presence of another person.

Further, there are prohibitions against exposing oneself to persons under 16 years of age. The **CRIMINAL CODE** provides:

173. [TAB](2) Every person who, in any place, for a sexual purpose, exposes his or her genital organs to a person who is under the age of 16 years,
- (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than two years and to a minimum punishment of imprisonment for a term of 90 days; or
 - (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than six months and to a minimum punishment of imprisonment for a term of 30 days.

Example: In *R v Berhe*²⁷, a man who had unzipped his fly and removed his genitals was found guilty of exposure to a person under 16 for a sexual purpose when a gust of wind moved the newspaper that was concealing his genitals, leaving them exposed to two children.

²⁶ *R v Berhe*, 2011 ONSC 6815, rev'd on other grounds, 2012 ONCA 716

²⁷ *R v Berhe*, 2011 ONSC 6815, rev'd on other grounds, 2012 ONCA 716

PROVINCIAL/MUNICIPALLY

A number of municipal by-laws in Canada prohibit behaving in an indecent or offensive manner in certain contexts, specifically on public transit, in public libraries or in public parks or recreation facilities. Contraventions of such by-laws usually attract nominal monetary fines.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

GENERAL

Any form of harassment about which the victim feels threatened or uncomfortable should be reported immediately to the police services in a given jurisdiction. The police are empowered to investigate complaints and to deal with criminal activity. If the behaviour(s) complained of do not constitute criminal activity, in many jurisdictions the police departments have victims' services departments to which they will refer complainants. Victims' services departments offer counselling services, referrals and/or emotional support to victims as required.

(a) Alberta**LOCAL POLICE SERVICES**

An individual who experiences street harassment could call the non-emergency line of their jurisdiction, two of which are included below, or visit the front counter of any police station and provide the responding officer with details of the incident.

- Calgary: (403) 266-1234
- Edmonton: (704) 423-4567

(b) British Columbia**LOCAL POLICE SERVICES**

An individual who experiences street harassment could call the non-emergency line of their jurisdiction, which are included below, or visit the front counter of any police station and provide the responding officer with details of the incident.

- Vancouver: (604) 717-3321
- Surrey: (604) 599-0502
- Burnaby: (604) 294-7922.

(c) Manitoba**LOCAL POLICE SERVICES**

Brandon: As with Winnipeg, individuals who feel they are victims of a form of harassment on a public street (in a non-emergency scenario) are urged to attend to the nearest station and complete a report.

Upon review, officers and prosecutors are to decide whether or not to proceed with an investigation.

In circumstances of emergency, these victims are to call [9-1-1](#).

In non-emergency circumstances, a victim can call the non-emergency number at [\(204\) 729-2345](#) and report the incident by telephone.

Winnipeg: Individuals who feel they are victims of a form of harassment on a public street (in a non-emergency scenario) are urged to attend to the nearest station and complete a report. Upon review, officers will decide whether or not to proceed with further investigation.

In circumstances of emergency, these victims are to call [9-1-1](#). Non-emergency calls can be made to [204-986-6222](#).

OTHER SERVICES

Brandon: The Brandon Police Service has a **Victim Services Unit** [↗](#) that is able to assist with a crisis by providing information about police procedures, the court system and other important issues (the Victim Services Unit can be contacted at [\(204\) 729-2335](#)).

Winnipeg: Winnipeg's **Downtown BIZ "Watch Ambassadors"** [↗](#) may provide assistance ([204-958-7233](#)). These ambassadors (despite not being police officers) patrol Winnipeg's downtown streets, offering a wide range of assistance wherever needed. They have been trained in "*non-confrontational mediation techniques*" and are able to immediately report criminal activity to the Winnipeg Police Service when necessary.

(d) New Brunswick**LOCAL POLICE SERVICES**

Harassment should be reported to the police either by phone or in person. The police will most likely dispatch a vehicle to the scene and, if the perpetrator is still in the area, speak with them about their behaviour. Depending on the type of conduct, the police may not be able to pursue the matter further.

If the perpetrator engaged in "*criminal*" conduct, the officers would take the victim's statement, canvass for witnesses, and file a police report based on the statement of the person making the complaint.

Municipal by-law infractions should be reported to the police. The police will be dispatched to the location of the alleged infraction, and a ticket may be issued if the individuals are still in the location and if there is sufficient evidence of the infraction.

(e) Newfoundland and Labrador

LOCAL POLICE SERVICES

Incidents of street harassment can be reported to the [Royal Newfoundland Constabulary at 709-729-8000](#), by selecting 1 from the menu options. Filing a report does not require an officer to come to the scene. For reports that require an officer to come to the scene, the complainant should dial [911](#).

HUMAN RIGHTS ACT VIOLATIONS

For violations of the [HUMAN RIGHTS ACT, 2010, SNL 2010, C H-13.1](#) [↗](#), a complaint can also be made to the Newfoundland Human Rights Commission (HRC). Complaints can be made by phone to [1-800-563-5808](#), by email to humanrights@gov.nl.ca, or in person at the HRC's office at [The Beothuk Building, 21 Crosbie Place, PO Box 8700, St. John's NL A1B 4J6](#). For more information visit [Newfoundland and Labrador Human Rights Commission: The Complaint Process](#) [↗](#).

(f) Northwest Territories

LOCAL POLICE SERVICES

Criminal offences, such as criminal harassment or sexual assault, should be reported to the Royal Canadian Mounted Police:

- [Northwest Territories – 1 \(867\) 669-1111](#)
- [List of all RCMP detachments in the Northwest Territories](#) [↗](#)

BY-LAW INFRACTIONS

Infractions of municipal by-laws in Yellowknife should be made to the relevant municipal by-law enforcement department via phone at [1 \(867\) 920-5694](#).

(g) Ontario

LOCAL POLICE SERVICES

[Hamilton](#): A number of the offenses that we have been searching (groping or unwanted touching) are listed in the [CRIMINAL CODE](#) as forms of criminal harassment or assault and dealt with by the police services as such. The Hamilton police consider harassment generally to be any type of unwanted direct or indirect contact that is not physical in nature; any time it is physical, it would be some type of criminal assault.

The **Hamilton Police Service** has a victims' services department which can be contacted at [\(905\) 546-4904](#). Officers will put any victim or witness of street harassment which constitutes criminal harassment or assault in contact with the

department, which will then put victims or witnesses into contact with the appropriate social services team.

Ottawa: There are different policies depending on whether the harassment is in progress. If in progress, the police service would take a call from a member of the public and dispatch an officer immediately. If the harassment was deemed to be a non-emergency and was not in progress at the time the call was made, the dispatch services would redirect the call to the call center ([613-236-1222 ext.7300](tel:613-236-1222)).

Anything that forms an assault must be reported in person, meaning that an officer – once called – will either attend the residence or other site or the complainant will attend to the police station. Note that swearing or yelling on one occasion is not considered to be harassment and is not dealt with by the police service on that basis; however, if these activities happen on an ongoing basis, officers would be dispatched to take a report in person. The police service only deal with reports of actions or activities that form criminal activity.

In the case of a report of street harassment, the police services will typically refer a complainant to its victim services department. Members of this department are trained specifically to respond to and interact with victims and also to provide safety advice. The number for the **Ottawa Police Services victim services department** is [613-236-1222, ext. 2223](tel:613-236-1222).

Regional Municipality of Peel (Mississauga and Brampton): When the police receive a report of street harassment of any kind, they will dispatch an officer who is responsible for investigating the situation and determining the appropriate path of action. As the content of complaints varies, the police's response will depend on the individual situation. If there is criminal activity, the police can make an arrest and charge the perpetrator.

If the conduct does not meet the threshold of crime, the police services can place the victim in touch with the **Victims Services Appeal** ([905-568-1068](tel:905-568-1068)). This appeal body is really helpful for cases that are straddling the threshold of crime, or for instances in which the police have acted in a manner that they consider to be appropriate and cannot provide further assistance.

The Appeal body exists because, in many cases, complainants are left in a state of victimhood once the police respond to the situation using their resources. The appeal body can offer assistance with respect to answering questions, providing or referring counselling services and offering financial assistance or counselling.

Toronto: The Toronto Police Service responds to calls from the public and evaluates the caller's situation once they physically attend to the caller's location. If the situation constitutes criminal activity, the police will proceed accordingly, whether it is simply laying charges or, for more serious cases, even taking the perpetrator into custody. If there is an absence of criminal activity, the police will typically refer complainants to the victims' services department.

If the police refer the complainant to the victims' services department ([416-808-7066](tel:416-808-7066)), the department will provide referrals for long-term counselling services, general emotional support, as well as a follow-up program to ensure that victims have received appropriate services. Examples of referrals in the Toronto area include The Gatehouse and the **Distress Centre** (for sexual harassment) as well as **BOOST** (for children who have suffered for harassment).

VICTIMS' SERVICES DEPARTMENTS

If harassment does not constitute criminal activity, police departments typically have victims' services departments to which they will refer complainants. These departments offer counselling services, referrals and/or emotional support to victims as required.

- Toronto: 416-808-7066
- Ottawa: 613-236-1222 ex. 2223
- Peel Region: 905-568-1068
- Hamilton: 905-546-4904

(h) Prince Edward Island

LOCAL POLICE SERVICES

Charlottetown: Incidents of street harassment can be reported to **Charlottetown Police Service** at [\(902\) 629-4172](tel:902-629-4172). Filing a report does not require an officer to come to the scene.

(i) Quebec

LOCAL POLICE SERVICES

Municipal by-law infractions should be reported to the police. The police will be dispatched to the location of the alleged infraction, and a ticket may be issued if the individuals are still in the location and if there is sufficient evidence of the infraction.

CRIME VICTIMS ASSISTANCE CENTRES

Crime Victims Assistance Centres (CAVACs) may be contacted. Such centres provide free resources to help victims of crime overcome the physical, mental, and social consequences of crime. Details are available from **Crime Victims Assistance Centres** website [🔗](#).

(j) Saskatchewan

LOCAL POLICE SERVICES

Prince Albert: Individuals who feel they are victims of a form of harassment on a public street (in a non-emergency scenario) are urged to attend to the nearest police station and supply a sworn statement to be reviewed by prosecutors. This sworn statement requires disclosure of the complainant's basic personal information and is kept on permanent record.

In circumstances of imminent danger, these individuals are to call 9-1-1. In non-emergency circumstances, a complaint or report can be made by calling (306) 953-4222.

Regina: Individuals who feel they are victims of a form of harassment on a public street (in a non-emergency scenario) are urged to first file an online report using the Regina Police Service Citizens Online Reporting System [🔗](#).

In circumstances of imminent danger, these individuals are to call 9-1-1.

If the incident is a non-emergency but is of a more serious nature (for example, if the complainant possesses suspect information or there are witnesses), a report should be filed by calling (306) 777-6500 or by attending the nearest police station in person.

Complainants will be asked to submit a sworn statement to an officer. This written statement will be filed within a permanent record database and can only be released under the orders of a judge.

Saskatoon: Individuals who feel they are victims of a form of harassment on a public street (in a non-emergency scenario that does not involve personal violence nor a hate crime) are urged to first file an online report using the Saskatoon Police Service Citizens Online Police Reporting System [🔗](#). These filed cases will be reviewed by an officer, likely within several days.

In circumstances of emergency, these victims are to call 9-1-1. Non-emergency calls are to be made to 306-975-8300.

If the (non-emergency) incident is of a more serious nature (i.e. involving personal violence or a hate crime), the victim is encouraged to attend to the front desk of the **Saskatoon Police Service** (at the nearest station) and file a suspect report.

A suspect report is not anonymous – the complainant must submit their name as well as other personal information for permanent recording purposes.

(k) Yukon

LOCAL POLICE SERVICES

Criminal offences, such as criminal harassment or sexual assault, as well as contraventions of by-laws, should be reported to the **Royal Canadian Mounted Police** by phone at: 1 (867) 667-5555.

List of all RCMP detachments in the Yukon [🔗](#)

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

GENERAL

Reporting to the police

A person reporting any type of street harassment can expect to have the police officer assess whether their complaint constitutes a criminal offense. In order for this determination to take place, it is likely that the complainant will be required to provide all known details of the incident, including the nature, duration and frequency of the activity complained of; the time and place; a description of the perpetrator; and the details of the harassment.

In order to make a complaint, complainants generally must provide basic identification and contact information, such as their name and telephone number. Usually a record of the complaint will be made.

A police officer may be assigned to the file for further investigation. Dependent on the nature and the specific context of the complaint, it may be necessary to have a follow-up meeting with the police officer. The amount of information required at such a follow-up meeting will depend on what happened.

If a record of the incident is made, how long the record is kept depends on the practice of the police service in the particular jurisdiction, the gravity of the incident or how the police choose to proceed.

In some jurisdictions, anonymous reporting is accepted. In such cases, the complainant may refuse to provide personal information if they choose to.

Generally, until a matter goes to court, the complainant's name, address and telephone number will be kept confidential. However, there is no general right to anonymity; a member of the public may gain access to statements and records, for example by obtaining a court order. If a matter goes to court, the incident report becomes part of the public record.

Reporting to Municipal Enforcement Departments

When reporting street harassment that amounts to a contravention of a municipal by-law, the process begins with a report made by phone to the relevant municipal department or the police, depending on the jurisdiction.

In more serious situations, follow-up statements may be required.

In some jurisdictions, anonymous reporting is accepted. In such cases, the complainant may refuse to provide personal information if they choose to.

Depending on the jurisdiction, reports of these complaints may be kept for a period of time only or permanently.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

(a) Alberta

There are no specific provincial anti-harassment policies in Alberta; however, there are some notable initiatives:

Public Transit

Various trains in Alberta are outfitted with silent alarms that can be triggered in the event someone is feeling threatened or harassed. Further, many buses have **“request a stop”** programs where patrons riding between 9:00 p.m. and 5:00 a.m. may ask the bus driver to let them off between bus stops where it is safe to do so.

Lethbridge College

Lethbridge College has a **Discrimination/Harassment Committee** made up of members of the College community, including students, staff and faculty. Upon receipt of a complaint, the Committee determines whether discrimination/harassment has occurred and recommends appropriate action directly to the College’s President. The Committee writes a final report at the end of their investigation. For further information, visit [Lethbridge College: Policy and Procedures](#).

University “Safe Walk” Programs

Various colleges and universities have **“safe walk”** programs, which send a pair of co-ed walkers to any point on campus to provide an accompanied walk for a sole traveller. For example, see [University of Alberta Students’ Union SafeWalk](#).


(b) British Columbia

Public Transit


Various trains and subways in British Columbia are outfitted with silent alarms that can be triggered in the event someone is feeling threatened or harassed. Further, many buses have **“request a stop”** programs where patrons riding between 9:00 p.m. and 5:00 a.m. may ask the bus driver to let them off between bus stop, where it is safe to do so.

University of British Columbia


The University of British Columbia has a **Discrimination and Harassment policy** in place which acknowledges that harassment can involve individuals or groups and can occur as one serious incident or a series of incidents. Persons who experience harassment are encouraged by the policy to consult with the **Equity and Inclusion Office**. The policy provides for a graduated system of complaints and investigation with concrete mechanisms for dispute resolution such as mediation, restorative justice and

discipline. Students or staff may appeal any disciplinary order under the procedures. For further information, visit [University Council UBC: Discrimination and Harassment](#) .

[University of Victoria](#)

The University of Victoria's harassment policy is similar but goes further by explicitly defining sexual harassment. It also has a system for both informal and formal complaints, allowing the complainant to decide whether they would like to resolve the problem in confidence, formally or informally. For further information, visit [University of Victoria: Discrimination and Harassment Policy](#) .

[Rape Crisis Centre](#)

The Women Against Violence Against Women Rape Crisis Centre in B.C is an organization dedicated to ending all forms of violence against women. The organization had a poster campaign entitled "This space is mine". For further information, visit [WAVAW: This Space is Mine](#) .

(c) **Manitoba**

There are no specific provincial anti-harassment policies in Manitoba; however, there are some notable initiatives:

[Winnipeg Downtown BIZ Watch Ambassadors and SafeWalk Program](#)

Winnipeg's "**Downtown Watch Ambassadors**" canvass city streets in red and black outfits seven days per week, both in the daytime and in the evening.

The team patrols the downtown core and offers a variety of services, including directions, information for tourists, first aid treatment and a variety of other assistance wherever needed.

The ambassadors have been educated in a variety of mediation techniques in order to respond to confrontational environments.

Watch Ambassadors are equipped with two-way radios to facilitate immediate correspondence with the Winnipeg Police Service.

In addition, Watch Ambassadors provide SafeWalks for any individuals who feel intimidated by walking downtown to their car or bus stop when working late or leaving an event when it is dark outside.

To contact Downtown Watch arrange a SafeWalk, call [204-958-7233](tel:204-958-7233). For further information, visit [Watch Ambassadors](#) .

[University of Winnipeg SafeWalk and SafeRide Programs](#)

The **University of Winnipeg's SafeWalk program** provides students, staff and faculty

with an escort to their car or bus stop (within a one-block radius of the university) during the fall and winter sessions.

A **SafeWalk** can be arranged by attending to or calling the Security Office at [204-786-9272](tel:204-786-9272).

Similarly, the **SafeRide** program provides students, faculty and staff with a safe escort to their bus stop, vehicle or residence if it is situated within a designated patrol area

SafeRide is administered by Security Services at [204-786-9272](tel:204-786-9272). For more information, visit [University of Winnipeg Security Services](#) [↗](#).

Security Services' Emergency Number is [204-786-6666](tel:204-786-6666).

The Security Services Tip Line is [204-258-2930](tel:204-258-2930) or tips@uwinnipeg.ca.

(d) **New Brunswick**

There are no specific provincial anti-harassment policies in New Brunswick; however, there are some notable initiatives:

[University Safe Walk Programs](#)

At participating universities, students are accompanied on their walks home by a team of volunteers.

The University of New Brunswick and St. Thomas University share security services as they are located in the same town. For more information on the Safewalk Program, visit **Safewalk** [↗](#) or call the Security Office #: [\(506\) 453-4830](tel:506-453-4830) or Safewalk Cell #: [\(506\) 470-8304](tel:506-470-8304).

Individuals at Mount Allison can call the Campus Police at [506-364-2228](tel:506-364-2228) if they fear walking home alone at night and can receive an escort across campus or to their cars in the parking lot.

[University Anti-Harassment Hotlines](#)

At participating universities, anti-sexual harassment hotlines are maintained as part of the universities' sexual harassment awareness groups. At Mount Allison University, the **Sexual Harassment & Assault Response & Education (SHARE)** hotline can be reached at [506-540-7427](tel:506-540-7427).

(e) **Newfoundland and Labrador**

There are no specific provincial anti-harassment policies in Newfoundland and Labrador; however, there are some notable initiatives:

The **Newfoundland Sexual Assault Crisis and Prevention Centre** provides support and information to victims of sexual harassment. Their 24-hour Crisis Support and Information Line can be reached toll free at [1-800-726-2743](tel:1-800-726-2743), or locally in St. John's at [726-1411](tel:726-1411). Victims can also attend their office at [360 Topsail Road, Suite 101, St. John's](#),

NL AIE 2B6. They also participate and organize a number of events, activities and education sessions. For more information, visit [NLSACPC](#).

(f) Northwest Territories

[Aurora College – Anti-Harassment Policy](#)

Aurora College (Inuvik, NWT) has instituted a specific anti-harassment policy to protect an individual's right to an environment that is free from harassment, explicitly recognizing that harassment may be a one-off occurrence. The policy allows for confidential verbal or written complaints that will be reviewed by officers external to the college.

For more details, please visit [Aurora College](#).

[Women's Shelters – Northwest Territories](#)

There are five women's shelters across the Northwest Territories. Although these shelters are primarily for the purpose of protecting women in abusive relationships, some of these shelters have their own "crisis lines" available 24/7. These lines are not reserved only for crisis situations, but are available to help women who require support or information.²⁸

- [Yellowknife – 1-867-873-8257](#)
- [Hay River – 1-867-874-6626](#)
- [Fort Smith – 1-867-872-4133](#)
- [Inuvik – 1-867-777-3877*](#)
- [Tuktoyaktuk – 1-867-977-2526](#)

For more information, please visit [FAQs: Family Violence](#) and [Family Violence Services for Women: Contact Us](#).

[Northwest Territories Help Line](#)

Women can call the Northwest Territories Help Line if they are experiencing personal problems. The line provides information, support and referral services between 7:00 p.m. and 11:00 p.m. any night of the week. The Help Line is completely confidential. For more information, please visit: [Family Violence Services for Women: Contact Us](#).

(g) Nova Scotia

There are no specific provincial anti-harassment policies in Nova Scotia; however, there are some notable initiatives:

[Dalhousie University](#)

Dalhousie University in Halifax has a **Sexual Harassment Resource Group**, **Harassment Prevention Advisor (494-1137)** and **Counselling and Psychological Services (494-2081)**.

²⁸ For those shelters where no crisis line was available, the general phone number for the shelter has been provided and marked with an asterisk (*).

The **Avalon Sexual Assault Centre** ([425-0122](tel:425-0122)), **Dalhousie Health Services** ([494-2171](tel:494-2171)) or the **Dalhousie Women's Centre** ([494-2432](tel:494-2432)) also provide resources and support on sexual harassment.

(h) Nunavut

There are no specific territorial anti-harassment policies in Nunavut, however there are some notable initiatives:

[Iqaluit Public Safety Committee](#)

The **Iqaluit Public Safety Committee** is focused on initiatives which could create a safer community. This committee provides the potential for future development of specific harassment initiatives, if necessary, and **Hollaback!** users could take part in the meetings of these committees. This [news release](#) provides more information (including contact information).

(i) Ontario

[Public Transit Systems](#)

The **Toronto Transportation Commission (TTC) transit system** features the **Request Stop Program**. The Request Stop program is available to all customers travelling alone by bus between 9:00pm and 5:00am. Request Stop allows any customer feeling vulnerable to get off the bus between regular TTC stops. The TTC's Transit Enforcement and Security Services can be contacted at [\(416\) 393-7880](tel:416-393-7880).

The TTC subway system also has **Designated Waiting Areas**. Designated Waiting Areas are located on all subway platforms. The DWA has unique lighting, an intercom connected to the station Collector, closed circuit TV camera, public phone and a bench. They can be useful to people travelling alone or who feel threatened or otherwise at risk. The TTC's Transit Enforcement and Security Services can be contacted at [\(416\) 393-7880](tel:416-393-7880).

The **Hamilton Street Railway (HSR)** also has a Request Stop Program which accommodates customers who wish to be let off at along existing HSR routes at locations other than regular bus stops. The HSR also distributes an informational package which outlines its "**Zero Tolerance Policy**": physical violence or verbally abusive behaviour will not be tolerated at any time. Swearing, yelling, insulting or threatening other passengers or HSR employees can result in refusal of service and/or criminal charges. The HSR's Administrative branch can be contacted at [\(905\) 528-4200](tel:905-528-4200) or by email at hsrserve@hamilton.ca.

Following a string of sexual assaults on the Ottawa transit system, **OCTranspo**, the management of OCTranspo has begun rolling out a 10-point safety plan, which creates an inventory of best practices for the prevention of assault. Furthermore, effective September 1, 2013, OCTranspo's **Night Stop program**, which provides one well-lit stop at transit stations and allows passengers to get off at locations closer to their destinations, instead of the regular bus stops, starts at 7 p.m. rather than the previous start time of 9 p.m. OCTranspo's Transit Security Branch can be contacted at [\(613\) 741-2478](tel:613-741-2478).

Local Community Initiatives

The Gatehouse is a common social services provider to which the Toronto Victims' Services Department refers victims of sexual harassment. The Gatehouse is often a resource to which the Toronto Police Service will refer victims of street harassment. The Gatehouse is located at [3101 Lakeshore Blvd. West](#) in Etobicoke and can be contacted at [\(416\) 255-5900](#). The organization hosts a [website](#) containing useful information.

The **Metropolitan Action Committee on Violence Against Women and Children (METRAC)** [website](#) is a community-based organization founded in 1984 and dedicated to preventing violence and advancing safety, justice and equity for all women and youth. It is headquartered in Toronto and hosts many community workshops that promote safety for women in public areas. METRAC is currently conducting a Campus Safety audit across Ontario university campuses. The organization has identified several risks which jeopardize women's safety and risk of harassment including isolation, lighting and sightlines; accessibility; signage, layout and maintenance; attitudes and behaviours; and policies and practices. In the past, METRAC partnered with the City of Toronto to improve by-laws for public safety. Underground garages must be lit and painted white as a result. METRAC has also partnered with Toronto Transit Commission (**TTC**) to conduct a Safety Audit of the system. Designated Waiting Areas (**DWA**) and the Request Stop Program are two of the improvements that resulted from it. Note that the Request Stop Program is no longer restricted to women. METRAC can be contacted by phone at [\(416\) 392-3135](#) or by email at info@metrac.org.

In Hamilton, **SACHA, the Women's Centre** [website](#), as well as other women's shelters are doing great things to address violence against women, but do not focus explicitly on street harassment. SACHA's free, confidential and non-judgemental support line can be contacted 24 hours a day at [\(905\) 525-4162](#).

The **Ontario Women's Justice Network (OWJN)** has a [website](#) which provides resources and legal information on issues related to violence against and harassment or stalking of women. **METRAC** is the host organization for OWJN.

Women who feel they have been victim to an assault can contact the **Assaulted Women's Helpline** [website](#) at [1-866-863-0511](tel:1-866-863-0511) for advice and support.

(j) Prince Edward Island

There are no specific provincial anti-harassment policies in Prince Edward Island; however, there are some notable initiatives:

Victims of street harassment can seek counselling and emotional support from the **Charlottetown Victims Services department**. More information can be obtained from the Victims Services [website](#).

(k) Quebec**Public Transit Systems**

Public transit systems, such as the **Société de transport de Montréal** (“STM”), typically have policies allowing women who are riding alone at night to request to be let off at a location between two official route stops. This policy is called the “**Between Stops Policy**”. For more information visit Société de Transport de Montréal [🔗](#).

Local Community Initiatives

Bien dans ma ville (My City, My Safety!) is a youth-led initiative for boys and girls aged 12–17 designed to prevent gender-based violence (including street harassment) and to provide recommendations for making public spaces in the city safer. More information on this project can be found [here](#) [🔗](#).

Some business may display signs in their store windows advertising a safe haven for individuals in distress or feeling uncomfortable. These signs are termed “**Safe Haven Signs**”.

(l) Saskatchewan

There are no specific provincial anti-harassment policies in Saskatchewan; however, there are some notable initiatives:

University of Saskatchewan Safewalk

Safewalk is administered by the University of **Saskatchewan’s Student Union** (in partnership with Campus Safety).

Students, staff or faculty members can receive an escort (comprised of volunteers in male-female pairs) to their car, office or residence Sunday through Thursday from 8:30 p.m. to 11:30 p.m.

Safewalks can be scheduled by calling **306-966-733**, using the green Safewalk call button on on-campus Sasktel payphones or by filling out the **Safewalk** recurring walk form (available online [🔗](#)) and dropping it off in the Student Union’s office.

For more information, visit **Safewalk** [🔗](#).

University of Regina Walk Along Program

The University of Regina’s Campus Security Office administers the Walk Along Program whereby staff and students can be escorted to their car or anywhere on campus for free.

Walk Alongs can be scheduled by calling **306-385-4999** or by pressing the “**Walk Along**” button on all on-campus payphones.

For more information, visit **University of Regina: Safety on Campus and in Residence** [🔗](#).

(m) Yukon

There are no specific territorial anti-harassment policies in the Yukon, however there are some notable initiatives:

Women's Directorate

The government of the Yukon has a **Women's Directorate department** which offers public education materials on women's equality, health and violence prevention. It has published informational material highlighting ways to deal with sexual harassment, including a directory of Yukon Agencies and Services which can be contacted. For more information visit the **Women's Directorate: Your Body, Your Choice** [🔗](#).

Making a Difference Canada

Making a Difference Canada is an organization aimed at giving a voice to sexual assault victims has an operation in Whitehorse. The Whitehorse team includes RCMP officers, and provides sexual assault support, investigative and prosecution services to the entire Yukon Territory. They can be reached at [604-806-0046](tel:604-806-0046). For more information, visit **Making a Difference Canada** [🔗](#).

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No. Criminal offences are set out in the [CANADIAN CRIMINAL CODE](#), which applies in all provinces. Provincial legislation and municipal by-laws differ among jurisdictions; however, the content of these statutes and by-laws tend to be substantially similar. Most municipalities have by-laws governing noise levels, prohibiting peace disturbances and prohibiting harassment and public nuisances in parks and on public transit. Such municipal by-laws are generally very similar across municipalities and provinces.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

(a) Harassment As A Human Rights Violation

For the most part throughout Canada, "*harassment*," as prohibited by provincial human rights legislation, is restricted to the contexts of employment, the provision of accommodations or the provision of services and not simply interactions between individuals in public. If a **Hollaback!** user is harassed at work, by a landlord or when trying to access goods and services, they may have grounds to make a human rights complaint. **Hollaback!** users should seek assistance from local services in order to get more information about making a human rights complaint.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

(a) Emergencies

If an incident of street harassment is reported to 9-1-1, an officer will come to the scene to investigate. The officer may simply give the person complained about a warning, or they may ask the person to leave the area. If the person is disturbing the peace or poses a threat to the public, they may be arrested.

(b) Non-Emergencies

If an incident of harassment is reported to a non-emergency police number, generally no officer will come to the scene. An officer will take down information over the phone about the incident, the complainant and the person complained about. Depending on the severity of the incident, an officer may contact the person complained about, or witnesses, to determine whether criminal charges should be laid.

(c) Violation of Criminal Law

If a person is arrested after an incident of street harassment, the person may be held for a period of time by the police, may be questioned, or may be released. If a person is charged by the police with a crime, the person will go to court and may either make a plea of guilty to the charge made against them, or to a lesser charge, or they may have a trial. If the person has a trial, the **Hollaback!** user may be asked to attend at the trial as a witness. If the person is found not guilty at the trial, the person will be released. If the person is found guilty at the trial, the person may be subject to probation, jail time, a fine or any number of these consequences.

(d) Violation of Municipal By-Laws

If a complaint about a violation of a municipal by-law is made right away, the police may dispatch a vehicle and speak with the person complained about. If the police find that a person contravened a municipal by-law, he or she may receive a fine provided that sufficient evidence of the infraction is recorded. Persons who have been found to violate a municipal law are generally subject to fines. Such fines vary between jurisdictions and across different offences. First-time offenders rarely face fines over \$15,000; however, fines can increase in size in the case of repeat offenders.

(e) Human Rights Complaints

For complaints to human rights commissions, the commission will encourage restorative approaches to resolving the dispute, including a resolution conference and mediation. The complaint may be referred to an adjudicator before a public hearing. After hearing all of the evidence, such adjudicator will decide if there has been a violation of the relevant Human Rights Act and provide a decision in writing. The adjudicator can order the respondent to pay a fine or other remedies to compensate the complainant.

COLOMBIA

LEGAL CONTACT:

Manuel Mejia, *Hewlett Packard Colombia*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

There is not a law that can be considered directly applicable to this kind of behaviour. Notwithstanding, it is possible to consider applying general laws (criminal law, administrative measures and fines, labor law, etc) in order to take effective measures against this kind of behaviour.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes.

(b) Groping/unwanted physical conduct?

Yes.

(c) Public masturbation?

Yes.

(d) Public exposure?

Yes.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

To the Public Prosecutor and other public organizations which investigate criminal acts. Also, there is a new Department of the Labour Ministry that attends to harassment regarding the labour environment.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The victim shall fill out a claim, and they would initiate an investigation in order to determine whether or not a crime has been made. If the Investigator entity concludes the existence of a crime, they will file a crime action before the Court.

Furthermore, the department of the Labour Ministry that attends to harassment regarding labour environment can impose economic fines, as well as provisional measures to protect the employee.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

No, there are not specific harassment policies.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, they are all very similar.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

As I mentioned at the beginning Colombian Law doesn't have a specific regulation in direct connection to street harassment.

CROATIA

LEGAL CONTACT:

Jalena Bosnak, Divjak, Topic & Bahtijarevic

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Street harassment (for example coarse or insulting language, comments about appearance, touching, public masturbation, threats) is not regulated by Croatian law specifically. The applicable Anti-Discrimination Act defines harassment in a broader sense, which definition encompasses street harassment. The said Act defines harassment as unwanted conduct on any of the following grounds: race, ethnic affiliation, colour, gender, language, religion, political or other belief, native identity or expression, sexual orientation, aimed at or actually violating another person's dignity, creating a hostile, degrading or offensive environment. Under this Act, any person who intends to cause fear to another person, or create a hostile, degrading or offensive environment under any of the grounds above and in the process violates another person's dignity, will be charged with penalty in the amount from HRK 5,000.00 to HRK 30,000.00.

Sexual harassment is defined as any verbal, non-verbal or physical unwanted conduct of sexual nature with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading or offensive environment.

Different laws have somewhat difference definitions of sexual harassment. Hollaback Croatia's view is that these definitions should be aligned in order to prevent possible implementation problems²⁹.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Verbal harassment (for example insulting or coarse language, comments about appearance, threats) is not defined as a subtype of harassment; this type of conduct is regulated by a number of acts forbidding various offences, including:

- **THE ANTI-DISCRIMINATION ACT**, defining sexual harassment as, among other, any verbal conduct of a sexual nature with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading or offensive environment. This conduct will be penalized by HRK 5,000.00 to 40,000.00.

²⁹ Borić, R., Šinko, M. i Prlenda, S. (2009). *Ostvarivanje politike jednakih mogućnosti za tekstilne radnice/ke*. Centar za ženske studije, Zagreb.

- The applicable Criminal Act defines the felony of insult, which is designed to sanction conduct connected to or representing verbal harassment: *“Whoever insults another person shall be punished by a fine of up to ninety daily incomes.”*
- The applicable Public Order and Peace Act sets out the following: *“Anyone who behaves in a particularly offensive or rude manner in a public place by insulting citizens or disturbing the peace shall be liable to a fine or to a term of imprisonment not exceeding thirty days, and*
- *Anyone who insults or belittles moral feelings of citizens shall be liable to a fine or to a term of imprisonment not exceeding thirty days.”*

(b) Groping/unwanted physical conduct?

The applicable laws do not differentiate specifically between **(b)** through **(d)**; these subtypes of sexual harassment can be interpreted as conduct defined as a lewd act and/or sexual harassment.

The **CRIMINAL ACT AND ANTI-DISCRIMINATION ACT** define sexual harassment as:

“Sexual harassment is any verbal, non-verbal or physical unwanted conduct of sexual nature with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading or offensive environment.”

The Criminal Act holds that a person sexually harassing another person who is in a subordinate or dependent or particularly vulnerable position due to age, illness, disabled, addiction, pregnancy or major physical or mental disability is liable to a one-year imprisonment.

In addition, generally speaking, a lewd act is any act involving (other person’s) body purposing to satisfy or arouse the libido or sexual interest of themselves or the person towards which this action is directed, which is punishable by imprisonment for three months to three years, depending on the intensity, victim profile and other circumstance under which the act was committed.

(c) Public masturbation?


Please see **(b)**.


(d) Public exposure?



Please see **(b)**.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

The usual procedure includes filing a report with the local police or state attorneys’ office. Police can swiftly be reached by phone in case of emergency at phone Nos. 112 and 192. Nationwide contact details of local police precincts can be found [here](#) .

Nationwide contact details of local state attorneys' offices are listed on [this website](#) . Additionally, harassment can also be reported to ombudsman; however, this will not directly initiate criminal prosecution against the perpetrator. Ombudsman can be reached at info@ombudsman.hr.

Finally, there are court departments for victim and witness support in seven larger cities (Zagreb, Split, Rijeka, Osijek, Zadar, Sisak and Vukovar). These departments closely cooperate with volunteers from victim and witness support NGOs. These departments and NGOs organize and provide support (advice and other) both to victims and witnesses within the criminal proceedings. The umbrella NGO can be contacted at e-mail address pzs@pzs.hr or website www.pzs.hr . Court departments can be contacted at [this website](#) . Recently, a free hotline has been established at phone No. **116 006**.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

There is no strictly prescribed form for filing the report to the police/state attorney; however, it is usual that the police will individually interview the reporting person, take their personal information and contact details and take a statement on the incident (description of harassment events which occurred). Furthermore, the reporting person making the report can expect to be contacted by the police/state attorney's office/competent court on several occasions during the proceedings and will be summoned to testify on the incident as the victim or witness, respectively.

Victims of sexual harassment offences are entitled to consult an advisor for free, to be debriefed/questioned by police officers of the same sex, to refuse to answer questions related strictly to personal life, to request to be interrogated by audio-video link within court proceedings (without facing the perpetrator) and to request that public presence is excluded from court proceedings. Furthermore, victims of such offences also enjoy the right to secrecy of their personal information. These rules are set primarily for victims of offences which are considered as felonies; however, if it is appropriate for purposes of misdemeanour proceedings, some of these rules might also be applied in misdemeanour proceedings as well. All authorities are required to inform the victim about these rights.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

Generally, there are no specific misdemeanour fines for any form of harassment and/or sexual harassment. Misdemeanour fines are mostly pecuniary. However, if the police and state attorneys' office find that reported harassment qualifies as a felony (more severe harassment actions, e.g. lewd actions, sexual harassment felony, intrusive behaviour, etc.), the perpetrator, once convicted, may face imprisonment.

One of the recently implemented anti-harassment policies is protection of the reporting person. Namely, there is a separate misdemeanour under which it is proscribed to discriminate against any person just because he/she reported harassment/discrimination.

Still, there are no means of public transport reserved for one gender only or similar policies implemented in Croatia. We are not aware of any plans for such measures to be implemented any time soon.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No. Harassment and discrimination are currently addressed by national legislation in Croatia.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

A draft of the [PUBLIC ORDER AND PEACE ACT](#) is currently in the legislative process with the Croatian Parliament. Under the respective draft, street harassment is addressed directly and independently from discrimination i.e. harassment does not need to be on any discrimination basis in order to be sanctioned. As well, new street-harassment misdemeanours are explicitly introduced into Croatian legislation (E.g. public exposure and public masturbation, verbal harassment). Generally, it is envisaged that these will be sanctioned by pecuniary fines. However, this law has still not been enacted (as of 15/08/2014).

Laws and legal practice show that harassment is more connected / processed with / within institutions such as school or work vs. street harassment which is not recognized as much as harassment at institutions.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The reported person will almost certainly be questioned by the authorities i.e. local police officers. In accordance with common practice, if found guilty in misdemeanour or criminal proceedings, the person is likely to be either fined by pecuniary fines or jail sentence on probation.

However, the general view is that more serious offences with more serious consequences (felonies) are much more likely to be prosecuted (and much more likely to be reported in the first place). Verbal harassment is least likely to be prosecuted; however, this will largely depend on willingness of witnesses and victims to testify before the court.

CZECH REPUBLIC

LEGAL CONTACT:

Eva Ruhswurmová, *DLA Piper Prague LLP*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

According to [SECTION 186 OF THE CZECH CRIMINAL CODE \(40/2009 COLL.\)](#), all types of sexual harassment might be punished by imprisonment from 6 months up to 16 years (depending on circumstances and intensity) or by prohibition of activities.

The crime can be committed by everybody who forces anyone else to a sexual gratification, indecent exposure, groping etc. against his/her will, under threat or by mental manipulation.

Different types of sexual offences and sexual harassment are also punishable by law. If the offender forces other person by violence or threat of immediate violence or threat of other serious injury to health to self-gratification, denudation or other similar behaviour, he/she shall be sentenced to a term of imprisonment of six months to four years (or prohibition of activity). The same sentence shall be imposed on a person who shames another to sexual intercourse, self-gratification, denudation or other similar behaviour while abusing another's dependence, defencelessness or his/her own status and credibility and authority arising there from. In case the offender commits these offences against a child, he/she shall be sentenced to a term of imprisonment of one year to five years (depending on circumstances) or of five years to twelve years, if he commits these offences against the child under the age of 15 years or causes through such act severe injury to health of the victim. Finally, the offender shall be sentenced to a term of imprisonment of two to eight years if he carried a weapon or if he acted as a member of an organised group.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

This type of misbehaviour is not explicitly referred to in the law of the Czech Republic. However under [SECTION 358 OF THE CZECH CRIMINAL CODE](#), it might be punished as disorderly conduct with up to 3 years of imprisonment (depending on circumstances and intensity). Also, according to [SECTION 355 OF THE CZECH CRIMINAL CODE](#), if the offender publicly incites hatred of another nation or race or calls for restriction of the rights and freedoms of other nationals or members of a particular race, they shall be sentenced to a term of imprisonment of up to two years.

(b) Groping/unwanted physical conduct?

The general provision, regulating groping as an offence, is [SECTION 175 OF THE CZECH CRIMINAL CODE – EXTORTION](#) – which states: A person who forces another by violence, the threat of violence or the threat of another serious detriment to do something, to desist from doing something or to tolerate something, shall be sentenced to a term of imprisonment of six months to four years. [PARAGRAPH 2, LETTER F\) OF SECTION 175 CZECH CRIMINAL CODE](#) then directly makes reference to the protection of those who were the victim of such a crime because of his/her race, nationality, political conviction, religion or lack of religious faith.

Groping is further mentioned in [SECTION 186 OF THE CZECH CRIMINAL CODE – SEXUAL DURESS](#) – and can be punished by imprisonment from 6 months up to 16 years (depending on circumstances and intensity) or by prohibition of activities.

(c) Public masturbation?

This type of misbehaviour is not explicitly referred to in the law of the Czech Republic. However under [SECTION 358 OF THE CZECH CRIMINAL CODE](#), it might be punished as disorderly conduct with up to 3 years of imprisonment (depending on circumstances and intensity).

(d) Public exposure?

This type of misbehaviour is not explicitly referred to in the law of the Czech Republic. However under [SECTION 358 OF THE CZECH CRIMINAL CODE](#), it might be punished as disorderly conduct with up to 3 years of imprisonment (depending on circumstances and intensity).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Where an individual has become a victim of any type of (sexual) harassment, there are several options for reporting this. The first one is to report an assault to one of the emergency centres or hotlines. All of those are free of charge, provide a 24/7 service and are therefore available regardless of time or day and on top of that, all calls are recorded in order to be used as evidence. The most notable hotlines are:

[158 – Police](#)

[156 – Municipal or City Police](#)

[155 – Emergency](#)

[112 – Notification of each extraordinary situation](#)

Also, there are several dedicated (non-profit) organizations dealing specifically with hate violence or harassment, providing assistance to specific individuals exposed to violence, harassment and other types of assault. They primarily focus on improving their

access to justice. One of the main organization is called **In IUSTITIA** [🔗](#), established as a legal organization providing legal assistance to individuals exposed, most often, to hate violence, aiming to protect communities at risk of violent racism or dealing with monitoring legislative activities and analysing the Czech legal order in the context of community and international law.

In the case of a violation of the law by an offender, the crime must be reported at the local Police station in line with [ACT. NO 40/2009 COLL.](#), as amended.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

An individual should attend the police station, where she/he can report the crime in either oral or written form. If an individual chooses oral form, she/he should request a written copy of the statement. There is no prescribed form of the report, but there are certain questions which should be answered in order to make the report clear and comprehensible. Those are: who committed the crime (at least description of appearance), what happened, where did it happen, description of the behaviour of all persons concerned, with what weapon or tool was the crime committed, why did the crime happen (opinion of the person reporting a crime), what are the consequences for the victim.

A crime can be reported anonymously, but it makes it less credible. It is therefore better to provide a full name, address and telephone contact.

The Police are obliged to provide a secure environment for every person involved in the matters and to keep the victim and the offender apart.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific national anti-harassment policies in place.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, the Czech Republic is a unitary state with unified law system, which is equally enforced in all regions of the country. Local autonomous bodies cannot enforce their own laws.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

In the Czech Republic, street harassment is not explicitly anchored in the legislation, although victims can press civil charges relating to the protection of personality rights in regional courts. The anti-discrimination law approved in the Czech Republic in 2009 – the last EU state to do so – addresses discrimination in access to employment, business, education, health care and social security, but leaves out many areas.

On the other hand, there is a large variety of prohibited types of behaviour, concerning different kinds of violence in the Czech Republic, that would be considered illegal by law, but various milder forms of street, as well as sexual harassment or most hate crimes against different communities (women, elderly, GLBT etc.) go unreported due to fear of being outed, the fear of revenge and a general distrust of police officials, as reported by a number of (mostly non-profit) organisations.

The consequences themselves, however, which the offender may face, depend on the severity or seriousness of the act in question.

Provided the offender commits harassment in the form of libel, the victim ought to bring a civil action against the offender in order to demand a formal apology and to prevent further inappropriate behaviour, or even monetary compensation. Because the severity of this behaviour is not considered to constitute harm to the public (in most cases), the interference of the state authority is usually not necessary.

One of the big challenges may be that sexual harassment typically happens without the presence of a witness. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove details. A situation arises where the victim's word is against the offender's word. In such cases the principle of "*when in doubt, for the accused*" may apply, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

ENGLAND


LEGAL CONTACTS:

James Moss, *DLA Piper*

Susannah Black, *RBS*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of specific laws which make street harassment illegal.

Using threatening, abusive or insulting words or behaviour in a public place which is likely to cause harassment, alarm or distress is against the law. Specifically [SECTION 5 OF THE PUBLIC ORDER ACT 1986](#)  says:

- (1) A person is guilty of an offence if he
 - (a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or
 - (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting.

For example this would include behaviour like swearing at someone in the street, or making unwanted or inappropriate sexual comments.

In terms of gauging the level of seriousness of this offence, it is a summary only offence meaning it can only be dealt with in the Magistrates' Court and not the Crown Court and the maximum penalty is a fine. Therefore this is one of the less serious criminal offences that come before the Courts.

In addition [SECTION 4A OF THE PUBLIC ORDER ACT 1986](#)  says:

- (1) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he
 - (a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or
 - (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting thereby causing that or another person harassment, alarm or distress.
 - (c) The main difference between section 5 and section 4A is that the former does not require any element of intent whereas the latter does. As a result section 4A is a more serious offence and carries higher penalties but is more difficult to prove. The type of behaviour it covers is however broadly the same as section 5.

In terms of seriousness section 4A carries greater penalties than section 5. A useful reference to assess the seriousness with which various offences are treated by the Courts is the [official sentencing guidelines](#).

For an offence under section 4A a less serious offence where there are *“Threats, abuse or insults made more than once but on same occasion against the same person e.g. while following down the street”* the starting point in terms of penalty is a financial penalty.

For the more serious type of offence which includes group action or deliberately planned action against a targeted victim the starting point in terms of penalty is a community order. Only in the most serious cases where a weapon is brandished or used against a particularly vulnerable victim would the Court consider prison for this offence.

In addition, under the provisions of the Protection from Harassment Act 1997 it is an offence to *‘pursue a course of conduct’* that amounts to harassment. Specifically [SECTION 1](#) says:

- (1) A person must not pursue a course of conduct
 - (a) which amounts to harassment of another, and
 - (b) which he knows or ought to know amounts to harassment of the other.

In addition [SECTION 2](#) confirms that *“A person who pursues a course of conduct in breach of section 1 is guilty of an offence.”*

A [course of conduct](#) is defined as *“A ‘course of conduct’ must involve conduct on at least two occasions.”* (see [SECTION 7\(3\)](#)).

In terms of rating the level of seriousness of this offence the most useful reference is the official sentencing guidelines which are used by the Courts to decide how the sentence people who come before them for these offences.

The guideline for offences under [SECTION 2 OF THE HARASSMENT ACT](#) gives a starting point of a medium level community order for a small number of incidents and a starting point of 6 weeks in prison for acts including constant contact at night, trying to come into somebody’s workplace or home or those involving others.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. Using threatening, abusive or insulting words which are likely to cause harassment, alarm or distress is against the law under [SECTION 4 AND 5 OF THE PUBLIC ORDER ACT 1986](#) (see [SECTION 1](#) above).

(b) Groping/unwanted physical conduct?

Groping or unwanted physical conduct is against the law. Less serious incidents could be classed as common assault under [SECTION 39 OF THE CRIMINAL JUSTICE ACT 1988](#).

Common Assault is defined in law as “when a person either assaults another person or commits a battery”:

- An assault is committed when a person intentionally or recklessly causes another to apprehend the immediate infliction of unlawful force.
- A battery is committed when a person intentionally and recklessly applies unlawful force to another.

What this means is that a common assault can occur even where there is no actual physical contact.

More serious incidents where there is sexual touching without consent would be a crime of sexual assault under [SECTION 3 OF THE SEXUAL OFFENCES ACT 2003](#) [↗](#) which says:

A person (A) commits an offence if:

- (a) he intentionally touches another person (B),
- (b) the touching is sexual,
- (c) B does not consent to the touching, and
- (d) A does not reasonably believe that B consents.

The sentencing guidelines for this offence range from a starting point of a medium level community sentence, such as unpaid work, for the least serious type of offending up to a prison sentence of over six months for a more serious incident.

(c) **Public masturbation?**

This is against the law, either as insulting behaviour under the [PUBLIC ORDER ACT](#) (see [SECTION 1](#) above) or as the specific offence of [EXPOSURE](#) under [SECTION 66 OF THE SEXUAL OFFENCES ACT 2003](#) [↗](#), which says:

A person commits an offence if

- (a) he intentionally exposes his genitals, and
- (b) he intends that someone will see them and be caused alarm or distress.

(d) **Public exposure?**

This is against the law where someone intentionally exposes their genitals, and intends that someone will see them and be caused alarm or distress as the specific offence of [EXPOSURE](#) under [SECTION 66 OF THE SEXUAL OFFENCES ACT 2003](#) [↗](#) (see [SUBSECTION \(C\)](#) above).

In terms of rating the level of seriousness of this offence the most useful reference is the official sentencing guidelines which are used by the Courts to decide how to sentence people who come before them for these offences.

The guideline for exposure gives a starting point of a low level community order for the basis offence with no aggravating features, which would be something like 20–30 hours unpaid work and for an offence with more serious aggravating features such as threats

to prevent the victim reporting an offence or Intimidating behaviour/threats of violence a starting point of 12 weeks in prison.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Any instances of harassment can be reported to the police. In emergencies call [999](#), otherwise go to or contact your nearest police station, or dial [101](#) (non-emergency national police line).

Alternative Non-Emergency Numbers [↗](#)

Victims of sexual assault and harassment are encouraged to come forward and report crime. There is an increasing number of sexual assault referral centres (**SARCs**) available in the UK. These are local partnerships between the police, health services and voluntary organisations designed to address the immediate needs of victims of sexual assault. Victims of sexual assault can go to the SARC themselves if they do not want to report the incident to the police. For more information and to identify the location of SARCs please visit the [NHS Service Directory](#) [↗](#).

Harassment on railways in Britain can be reported to British Transport police by Freephone [0800 40 50 40](#) or text [61016](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The police will log the report of a crime and should provide you with a 'crime number' for further reference. They would usually wish to take a statement from you as a basis for the complaint. There is no general right to anonymity and only limited rights to anonymity after a case has gone to Court.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific national anti-harassment policies but there are many local initiatives in different areas. Examples include **Pink Ladies**, a not for profit organisation in Warrington which provides taxi services to female only members. It operates a through-the-door policy, ensuring passengers are safely inside their home before leaving. A number of cities have female only taxi services which can be found through online searches.

In some instances private institutions operate their own strategies for protecting their people. For example **Sheffield University** operates a women-only mini bus, details are available from [student services](#) [↗](#).

Liverpool's student union organised a march against street harassment called **"Reclaim the Night"** in order to raise local awareness.

British Transport Police's (BTP) anti-harassment strategy on London's transport system is called **Project Guardian**. It was launched in 2013 and includes several measures such as raising public awareness of the issue through publicity campaigns, comprehensive retraining of frontline transport police, the use of technology such as CCTV tracking, data analysis and text-based reporting services, and targeted "weeks of action" in which extra uniformed and plain-clothes officers patrol London's transport network, gather intelligence and communicate with the public, with the aim of sending a message to harassers as well as achieving an increased number of actual arrests. BTP hopes to expand the project to other UK cities. [Further information on Project Guardian](#).

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, they are broadly the same throughout the UK. Technically, the law in Scotland is different to the law in England and Wales but in relation to offences relevant to Street Harassment is broadly similar. Similarly, the law in Northern Ireland differs in some respects from English law but is also broadly similar. There is a helpful [overview of the relevant Scottish laws here](#).

In Scotland the approximate equivalent to the English Public Order Act is [SECTION 38 OF THE CRIMINAL JUSTICE AND LICENSING \(SCOTLAND\) ACT 2010](#), which says:

A person ("A") commits an offence if

- (a) A behaves in a threatening or abusive manner,
- (b) the behaviour would be likely to cause a reasonable person to suffer fear or alarm, and
- (c) A intends by the behaviour to cause fear or alarm or is reckless as to whether the behaviour would cause fear or alarm.

In addition there is a common law offence (an offence which is not included in any specific Act of Parliament) of Breach of the Peace which can include any behaviour which could cause alarm to members of the public and would therefore cover incidents of Street Harassment.

In relation to sexual offences which would include **Exposure**, the Scottish equivalent to the English Sexual Offences Act 2003 is the [SEXUAL OFFENCES \(SCOTLAND\) ACT 2009](#). The specific section dealing with **EXPOSURE** is [SECTION 8](#) which says:

- (1) If a person ("A")
 - (a) without another person ("B") consenting, and
 - (b) without any reasonable belief that B consents.

intentionally and for a purpose mentioned in subsection (2), exposes A's genitals in a sexual manner to B with the intention that B will see them, then A commits an offence, to be known as the offence of sexual exposure.

- (2) The purposes are
- (a) obtaining sexual gratification,
 - (b) humiliating, distressing or alarming B.

In Northern Ireland the appropriate offence is covered by [THE SEXUAL OFFENCES \(NORTHERN IRELAND\) ORDER 2008 SECTION 70](#) [↗](#) which is identical in wording to section 66 of Sexual Offences Act 2003 which applies in England.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Victim Support is an organisation which supports victims or witnesses of any type of crime in the UK. It provides information to individuals about how they can deal with crime or take steps to help prevent it. Victims can discuss their experience of crime anonymously and in confidence through Victim Support's [Supportline](#). Victims are provided with emotional support and information over the phone, or by email, and can be put in touch with local offices and with other organisations that can help. If you report street harassment to the police it is likely they will refer you to Victim Support. However you can also contact them directly for assistance whether or not you choose to contact the police: telephone [0845 30 30 900](#), email supportline@victimsupport.org.uk or visit the [webpage](#) [↗](#).

In addition **Rape Crisis** is an organisation that supports victims of sexual violence (not limited to rape). Victims needing urgent and specialist sexual violence support can call the Rape Crisis National Freephone Helpline [0808 802 9999](#) or can [visit this page](#) [↗](#) to locate their nearest [Rape Crisis Centre](#).

In some circumstances victims of street harassment may be entitled to **compensation** for any injuries they suffer. [Visit this page](#) [↗](#) for more information.

Once a crime is reported to the Police they have a duty to investigate. If a suspect is identified and arrested they will be investigated and then a decision made by Crown Prosecution Service as to whether to charge them, caution them or release them without charge. If they are charged the case will go to Court and if there is a Trial the person who made the complaint may well have to give evidence against them.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Whilst in principle there are a wide variety of laws which prohibit various types of behaviour that would come under the heading of Street Harassment, the reality of enforcement is somewhat different.

The first point to note is that if the person who has committed the act of harassment cannot be found or identified there is little prospect of the police or prosecuting authorities taking the case any further. The Code for Crown Prosecutors requires that for any case to be prosecuted through the Courts there must be sufficient evidence to found a reasonable prospect of conviction. Without that, prosecution will never get off the ground.

Further, even where a suspect is found and arrested and there is sufficient evidence to warrant them being charged with a criminal offence, in many cases (provided they do not have a significant record of previous convictions) they will be given a caution, in essence a formal 'telling off' from the Police which means the case will not go any further and will not go to Court.

A caution is not a criminal conviction but it is recorded and gives that person a 'criminal record'. Anecdotally, cautioning of offenders is becoming increasingly common and is being used for increasingly serious offences and all but the most serious of incidents which come within the definition of street harassment are currently likely to be eligible to be dealt with by a caution.

Despite the above it is always worthwhile reporting any incidents of Street Harassment, however unlikely it may seem that the offender will be caught and prosecuted. Police forces log all complaints and are able to collate reports of a similar type to establish patterns and detect repeat offenders; British Transport police in London have a specific policy of adopting this strategy.

FRANCE

LEGAL CONTACTS:

Phillipe Blaquier-Cirelli, Elsa de Mullenheim, *DLA Piper UK LLP*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

“Street harassment” is not specifically punishable under the French Criminal Code, but some of the relevant behaviour can fall under the scope of other particular offenses such as insulting behaviour, sexual exhibition (public masturbation or public exposure of sexual organs) or sexual assault (touching of sexual/intimate areas).

Under French law, offences are classified under 3 classes of crime, depending on the gravity of the infringement: “*contravention*” (including subclasses 1 to 5), “*délit*” and “*crime*”, which is the most serious offense. Procedures and penalties are specific to each class of offense.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Insults against someone in the street or any places considered as being a public place may be punishable under [ARTICLE 33 OF THE LAW DATED 29 JULY 1881](#) on the freedom of the press, which refers to “Any offensive expression, contemptuous term or invective, without provenance as a fact”. Insult is a “*délit*” liable to a maximum fine of €12,000.

The penalty is increased to a maximum of €22,500 fine and 6 months imprisonment in the event of insults in connection with ethnic origin, religion, disability or sexual orientation. Moral harassment is not punishable outside of the scope of the employment relationship.

(b) Groping/unwanted physical conduct?

In serious cases, groping/sexual touching may fall under the scope of “*sexual assaults*”, which refers to sexual abuse (excluding penetration) committed under violence, threat, constraint or surprising/unexpected conduct and punishable under [ARTICLE 222-22 OF THE FRENCH CRIMINAL CODE](#).

“*Sexual assault*” is a “*délit*” liable to a maximum €75,000 fine and 5 years imprisonment. The penalty may be increased to a maximum €100,000 or €150,000 fine and 7 or 10 years imprisonment when perpetrated in aggravated circumstances (such as an assault which causes injury or committed with the threat or use of a weapon,

under the influence of alcohol, by several persons, with abuse of authority, or when the assault is committed against specific person such as a minor or a disabled person).

It has been known for sexual assault to include a man pinching a woman's bottom (but this was accompanied by other physical pressures as the man tried to oblige her to enter his car). The punishment was 5 months of prison (including a 4 month suspended sentence)³⁰.

SEXUAL HARASSMENT

Sexual misconduct may constitute a *“sexual harassment”* which encompasses the repeated act of subjecting someone to degrading or humiliating language of a sexually explicit nature, or to conduct the nature of which may cause harm to that person's dignity or lead to an intimidating, hostile or offensive situation.

“Sexual harassment” could also be isolated (i.e. non repeated) conduct if this conduct includes serious pressure in order to obtain sexual gratification.

“Sexual harassment” is punishable under [ARTICLE 222-33 OF THE FRENCH CRIMINAL CODE](#) and [ARTICLE 1153-1 OF THE FRENCH LABOUR CODE](#). It is a *“délit”* liable to a maximum €30,000 fine and 2 years imprisonment. The penalty may be increased to a maximum €45,000 fine and 3 years imprisonment when perpetrated by several persons, persons who have authority over the victim, or when sexual harassment is committed against a vulnerable person (such as a minor, disabled persons or persons financially dependent on the perpetrator).

(c) Public masturbation?

Obscene conduct such as public masturbation falls under the scope of the offence of *“sexual exhibition”* which refers to the exposure of sexual organs to others, in any place accessible to the public, and punishable pursuant to [ARTICLE 222-32 OF THE FRENCH CRIMINAL CODE](#). *“Sexual exhibition”* is a *“délit”* liable to a maximum €15,000 fine and 1 year imprisonment.

(d) Public exposure?

Public exposure of sexual organs falls under the scope of the offence of *“sexual exhibition”* which refers to the exposure of sexual organs to others, in any place accessible to the public, and punishable pursuant to [ARTICLE 222-32 OF THE FRENCH CRIMINAL CODE](#). *“Sexual exhibition”* is a *“délit”* liable to a maximum €15,000 fine and 1 year imprisonment.

³⁰ Cass. crim. 15 April 1992, n°91-85214.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

COMPLAINT TO THE POLICE

With regard to the offences of sexual assault, sexual exhibition or sexual harassment, which constitute délits, the victim may file a complaint to the local Police authority (in practice, the victim may call into the nearest police station) in a three-year period from the date of the offence. With regard to insults, the timeline to file a complaint is limited a three-month period from the date of the insult (or 1 year in the event of insults in connection with ethnic origin, religion, disability or sexual orientation). Complaints are passed to be dealt with by **the Prosecutor (“Procureur de la République”)**.

The victim may also send the complaint to the Prosecutor directly, at the local **Civil Court (“Tribunal de Grande Instance”)** located near to the victim’s residence or to the place where the offence occurred.

In case of emergency, the victim may call the police, whose telephone number is [17](#) or [112](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

WITHIN THE COMPLAINT

The victim must describe the offence, the place of occurrence, details of any witnesses, the name of the offender if known (if unknown, the complaint refers to “x”) and evidence.

Complaints are not anonymous.

The victim is able to withdraw the complaint at any stage of the procedure. However, the Prosecutor may decide to pursue the offender anyway if he believes that it is appropriate with regard to the offence alleged to have been committed (except in the event of insults, where the Prosecutor is not authorized to pursue anymore).

With regard to sexual harassment, the evidence is easier to provide. The victim must describe some facts or behaviours which may constitute a sexual harassment. And then the onus is on the defendant to prove that he has not committed sexual harassment.

PURSUANT TO THE COMPLAINT

The Prosecutor will analyse the complaint and then decide whether to pursue the offender. The victim will be informed of the decision by post. The decision will be one of the following:

- (i) **Rejection as a “non-case” (“classement sans suite”)**: the Prosecutor decides to not pursue the offender. To challenge the decision, the victim may recourse to the **General Prosecutor (“Procureur Général”)** or send another complaint to the Investigating Judge directly, requiring

indemnification (*“plainte avec constitution de partie civile”*). It is the same in the absence of response to the first complaint after a three-month period.

If the Investigation Judge also rejects the complaint and decides to not pursue the offender, because he considers that the behaviour does not fall under the scope of a criminal offence (*“ordonnance de refus d’informer”*) or that there is no sufficient evidence that the offence has been committed (*“ordonnance de non-lieu”*), the offender is entitled to ask for damages should they consider that they have been victim of a slanderous accusation.

- (ii) **Decision to take non-judicial alternative measures** (*“mesures alternatives aux poursuites”*) in order to draw a line under the offence and try to put the offender back on the right track (recall of order (*“rappel à la loi”*), community rehabilitation program...) outside of the scope of any trial.
- (iii) **Decision of direct summoning** (*“citation directe”*): if the matter does not reach any difficulty nor further investigation, the Prosecutor will pursue the offender in Court and the trial will take place directly.
- (iv) **Decision of judicial investigation** (with appointment of an Investigation Judge) to investigate the matter further and gather evidence before the trial. In this regard, the victim may be interrogated by the Investigation Judge or Experts.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific national policies in place in France against harassment, however below are some public or private organisations fighting for victims and advising them with regard to their rights and possibility of action against offenders:

The **“Centre national d’information sur le droit des femmes” (CNIDFF)** [🔗](#) is an essential outlet for governmental action, to combat all types of violence against women.

“CLASCHEs” organisation [🔗](#) is a feminist association of students against sexual harassment in Universities, primarily geared toward graduate and PHD students.

The official website of the French Government against sexual harassment [🔗](#).

The official website of the French Government to fight all forms of violence against women [🔗](#).

There are few specialised services offered to women, but the company **“Woman Cab”**, founded in 2011 offers specific women-only taxis. “Women Cab” has no internet site but the information has been published by the press [here](#) [🔗](#).

Since 2012, the **SNCF** (the French railway company) offers the option for women travelling overnight to reserve a bunk bed in a woman only compartment [🔗](#).

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

Not applicable in France where the national law governs the whole country.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No, there is nothing specific to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Should the offender be judged by the Criminal Court and be considered guilty, they may be convicted to a fine or a custodial sentence in case of serious offense. The maximum penalty is set out by the French Criminal Code for each offence.

The offender may also be ordered to pay damages to the victim.

GERMANY

LEGAL CONTACT:

Dr. Kirsten Girth, *DLA Piper UK LLP*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Street harassment may be unlawful in some circumstances, either as a criminal offence or an administrative offence.

(a) Criminal Offences

Street harassment may be seen as criminally libel where it involves significant violation of the victim's sexual dignity.

- (a) Examples of street harassment that were considered to amount to a libel include:
 - (i) The offender offered the 16-year old victim money for sexual activities, asking if she would like to increase her pocket money despite having no reason to think she would ever accept such an offer. This question was considered to equate her with a prostitute. By doing so, the offender significantly violated the victim's sexual dignity, contrary to [S.185 OF THE GERMAN CRIMINAL CODE](#).
 - (ii) The offender stroked the thigh of a young girl several times, despite her request to let go of her, contrary to [S.185 OF THE GERMAN CRIMINAL CODE](#).
 - (iii) The offender pretended to think four girls had stolen his wallet, as an excuse for making physical contact. He touched them while apparently looking for his wallet – in three cases he even touched the girls under their clothes.

Street harassment may also be considered sexual assault, if the victim is subjected to sexual contact involving violence or the threat of violence.

- (b) Examples of sexual harassment that amounted to sexual assault are:
 - (i) At first the offender tried to force the addressee to tolerate the sexual act and resorted to violence and significant threats. When he didn't achieve the sexual act, he violently pushed the victim's face against his erected genital in order to force her to undertake oral intercourse. The violence and threats which were executed by the offender made his actions be considered as sexual assault.
 - (ii) If the offender was able to partly undress the victim in order to force her to undertake sexual acts by resorting violence, his actions are seen as sexual assault.

- (c) Furthermore, if a person purposely exposes their genitals in public for sexual arousal, this will constitute the criminal offence of harassment by exhibitionism, contrary to [S.183 OF THE GERMAN CRIMINAL CODE](#).

(b) Administrative Offences

If an action is likely to harass others in a way that affects the physical or mental well-being of a person more than only insignificantly, that harassment would be considered an administrative offence.

It is also an administrative offence for the possibility of sex to be publicly offered, announced or praised in a harassing way.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Verbal harassment is not specifically outlawed. It may be classified as libel and may also be an administrative offence (see 1.a above).

(b) Groping/unwanted physical conduct?

Groping/unwanted physical conduct is not specifically outlawed. It may be classified as sexual assault (see 1.b above).

(c) Public masturbation?

Public masturbation is considered harassment by exhibitionism (see 1.c above).

(d) Public exposure?

Public exposure is considered harassment by exhibitionism (see 1.c above).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. [to local police, specific hotlines or other dedicated anti-harassment resources](#)

The way of reporting a harassing action depends on the circumstances of the matter as well as on the victim's mental well-being.

If the victim is not sure which way of reporting the sexual harassment is advisable, he/she should use the possibility of specific hotlines – the victim may contact the federal **Anti-Discrimination Agency**, which provides information and support, an organization called **women against violence** [🔗](#) or contact one of the multitude of local hotlines.

Criminal offences should be reported to the police, whose telephone number is [112](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

If the person being sexually harassed wishes to stay anonymous that person should contact one of the specific hotlines, where the person can choose to which extent he/she wishes to report the harassment.

It would be necessary to share detailed information about the concerning action in order to prosecute the harasser.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

No specific policies concerning street harassment have been put in place. The only specific policy concerning harassment is the [GENERAL EQUAL TREATMENT ACT \(AGG\)](#) which implies policies concerning harassment at the workplace.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, it is federal law.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No, there is nothing specific to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The scope of consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

If the harassment is treated as an administrative offence, the offender may have to pay an administrative fine of up to an amount of EUR ten thousand.

If the harassment is treated as a libel, the offender may have to pay a fine or be punished with imprisonment not exceeding one year. If the insult is committed by means of an assault the offender may be subject to a fine or to imprisonment not exceeding two years.

If the harassment is treated as sexual assault, the offender will be punished with imprisonment

- of not less than one year;
- of not less than two years in especially serious cases (i.e. if the offender performs sexual intercourse with the victim);

- of not less than three years if the offender carried a weapon or another dangerous instrument; and
- of not less than five years if the offender seriously physically abused the victim during the offence.

If the harassment is treated as exhibitionism, the offender is subject to imprisonment not exceeding one year or a fine.

In practice, punishment for harassment is as likely as that for any offence.

One of the big challenges may be that sexual harassment typically happens without the presence of a third person. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove details. A situation arises where the victim's word is against the offender's word. In such cases the principle of "*when in doubt, for the accused*" may apply, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

INDIA

LEGAL CONTACT:

Riddhima Sharma, *LawQuest International*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. The following sections of the [INDIAN PENAL CODE \(IPC\)](#) elaborate the forms of street harassment which are against the law. They include making obscene gestures, passing sexually coloured remarks, stalking, unwanted physical contact and various other offences.

S.294. OBSCENE ACTS AND SONGS. Whoever, to the annoyance of others,

- (a) Does any obscene act in any public place, or
- (b) Sings, recites or utters any obscene song, ballad or words in, or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

S.354. ASSAULT OR CRIMINAL FORCE TO WOMAN WITH INTENT TO OUTRAGE HER

MODESTY. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

S.354.A:

- (1) The following acts or behaviour shall constitute the offence of sexual harassment
 - (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) forcibly showing pornography; or
 - (v) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- (2) Any person who commits the offence specified in clause (i) or clause (ii) of sub-section (1) shall be punished with rigorous imprisonment which may extend to five years, or with fine, or with both.
- (3) Any person who commits the offence specified in clause (iii) or clause (iv) or clause (v) of sub-section (1) shall be punishable with imprisonment of either description that may extend to one year, or with fine, or with both.

S.354D:

- (1) Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking.

S.509: WORD, GESTURE OR ACT INTENDED TO INSULT THE MODESTY OF A WOMAN.

Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:**(a) Verbal harassment?**

Yes. It is an offence under [SECTIONS 294 \(SINGING, RECITING OR UTTERING ANY OBSCENE SONG, BALLAD OR WORDS\)](#), [354A \(A DEMAND OR REQUEST FOR SEXUAL FAVOURS / MAKING SEXUALLY COLOURED REMARKS\)](#) and [509 \(UTTERING ANY WORD OR MAKING ANY GESTURE INTENDED TO INSULT THE MODESTY OF A WOMAN\)](#) of the IPC.

For example: If a woman is standing at a bus stop and a group of men persistently pass sexually explicit remarks and comment on your body in a degrading manner, it is verbal harassment.

PUNISHMENT

SECTION 294: Offence punishable with imprisonment of either description for a term that may extend to three months, or with fine, or with both.

SECTION 354A: Offence punishable with imprisonment of either description for a term that may extend to one year, or with fine, or with both.

SECTION 509: Offence punishable with simple imprisonment for a term which may extend to one year, or with fine, or with both.

(b) Groping/unwanted physical conduct?

Yes. It is an offence under [SECTION 354 \(ASSAULT OR CRIMINAL FORCE ON A WOMAN WITH THE INTENT TO OUTRAGE HER MODESTY\)](#) and [354A \(PHYSICAL CONTACT AND ADVANCES INVOLVING UNWELCOME AND EXPLICIT SEXUAL OVERTURES\)](#) of the IPC.

For example: If a man touches you inappropriately in a crowded train, bus or while passing by you on the street like grabbing your breasts, your buttocks or waist, it is an offence of groping.

PUNISHMENT

S. 354: Offence punishable with imprisonment up to 2 year or fine, or both.

S. 354A: Offence punishable with fine and/or imprisonment of up to three years.

(c) Public masturbation?

Not specifically. But **SECTIONS 294 (WHOEVER, TO THE ANNOYANCE OF OTHERS DOES ANY OBSCENE ACT IN ANY PUBLIC PLACE)** and **509 (MAKING ANY GESTURE INTENDED TO INSULT THE MODESTY OF A WOMAN)** of the **IPC** may be evoked in cases of public masturbation.

PUNISHMENT

S. 294: Offence punishable with imprisonment of either description for a term that may extend to three months, or with fine, or with both.

S. 509: Offence punishable with simple imprisonment for a term which may extend to one year, or with fine, or with both.

(d) Public exposure?

Yes. It is an offence under **SECTIONS 294 (WHOEVER, TO THE ANNOYANCE OF OTHERS DOES ANY OBSCENE ACT IN ANY PUBLIC PLACE)** and **509 (MAKING ANY GESTURE INTENDED TO INSULT THE MODESTY OF A WOMAN)** of the **IPC**.

PUNISHMENT

S. 294: Offence punishable with imprisonment of either description for a term that may extend to three months, or with fine, or with both.

S. 509: Offence punishable with simple imprisonment for a term which may extend to one year, or with fine, or with both.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Harassment cases can be reported to your nearest police station by lodging a **First Information Report (FIR)**. Many cities have toll free help lines and recently, a nationwide "181" hotline was announced by the Government of India for women. A list of authorities dealing with Crimes Against Women can be found on the **National Commission of Women (NCW)** website [🔗](#). One can also register a complaint online with the NCW.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

An FIR must contain the following information; a detailed description of the incident including the date, time and place. In case you know the accused – then his full name and address, if not, as close a description as possible. Lastly, you must put down exactly what happened, this is very important in understanding the degree of the offence.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are provisions like reservation of seats in public transport such as buses and separate ladies only compartments for women in local trains. Mumbai also has special Ladies Only local trains operating at different times during the day.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No. With the exception of Tamil Nadu where the [TAMIL NADU PROHIBITION OF HARASSMENT OF WOMEN ACT, 1998](#) is in place.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Though there isn't a specific "Anti Street Harassment" Legislation in India, various offences which constitute street harassment have been covered by the [INDIAN PENAL CODE](#) as mentioned above. Thus, it is necessary for women to familiarize themselves with the above provisions of the [IPC](#).

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

When a woman registers a harassment complaint against a person she knows, the chances of that person being caught and put to trial are much higher as compared to when a woman files a complaint against an unknown person. Therefore, it is important that you try to give as accurate as possible description of the person who harassed you. The judicial machinery of India is unpredictable and therefore it is not possible to predict a specific time span within which you can expect the accused to be convicted. It may be a short while or it could take well over a year.

IRELAND

LEGAL CONTACTS:

Ronnie Neville, *Mason, Hayes & Curran*

Tara McMahon, *Intel*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes, street harassment is illegal in Ireland and is legislated for in several acts which are discussed more specifically below. Harassment, including sexual harassment, threatening, abusive and insulting behaviour is all prohibited by legislation. Sexual Harassment in the context of street harassment is not specifically defined in legislation, but is provided for throughout the legislation discussed below.

Harassment in general is provided for under [SECTION 10 OF THE NON-FATAL OFFENCES AGAINST THE PERSONS ACT, 1997](#) [↗](#) and says

“Any person who, without lawful authority or reasonable excuse, by any means including by use of the telephone, harasses another by persistently following, watching, pestering, besetting or communicating with him or her, shall be guilty of an offence.”

(2) provides that a person harasses another person where “(a) he or she, by his or her acts intentionally or recklessly, seriously interferes with the other’s peace and privacy or causes alarm, distress or harm to the other, and (b) his or her acts are such that a reasonable person would realise that the acts would seriously interfere with the other’s peace and privacy or cause alarm, distress or harm to the other.”

Whilst [SECTION 10 \(1\)](#) applies to “persistent” acts, and so usually applies to cases of stalking, it is possible that it could apply where a person follows, pesters or communicates with someone on an ongoing, or continuous basis, over a shorter period of time, over the course of an afternoon, or an hour, for example.

See also the other laws below for other legislative provisions outlawing harassment.

As well as criminal proceedings, a victim of street harassment may also bring a civil claim under the tort of trespass against the person. Examples of this tort would include spitting in a person’s face, or kissing a stranger while they are sleeping on a train. Words may also constitute an assault, when spoken in a particular context suggesting that the use of force is imminent, for example “I’m going to punch you”.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, [SECTION 6 OF THE CRIMINAL JUSTICE \(PUBLIC ORDER\) ACT, 1994](#) [↗](#) provides that

“It shall be an offence for any person in a public place to use or engage in any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or being reckless as to whether a breach of the peace may be occasioned.”

For example this would include behaviour like swearing at someone in the street, or making unwanted or inappropriate sexual comments or inciting hatred.

In terms of gauging the level of seriousness of this offence, it is a summary only offence, which means it would be dealt with in the District court (the lowest of the civil and criminal courts in Ireland). More serious offences are indictable offences, which may be heard by a jury in a higher court. Therefore, this is one of the less serious criminal offences that may come before the Courts. On conviction, an offender would be liable to a fine not exceeding (€634.00) or to imprisonment for a term not exceeding 3 months or to both.

Where the court convicts a person of an offence under [SECTION 6](#) and the court considers that it is appropriate to impose a sentence of imprisonment for a term of 3 months or more on the person in respect of the offence, it may, as an alternative to such a sentence, make an order restricting the movement of the person convicted. ([SECTION 101\(1\) CRIMINAL JUSTICE ACT 2006](#) [↗](#))

A restriction on movement order may restrict the offender’s movements to such extent as the court thinks fit and, may include provision

- requiring the offender to be in such place or places as may be specified for such period or periods in each day or week as may be specified, or
- requiring the offender not to be in such place or places, or such class or classes of place or places, at such time or during such periods, as may be specified, or both, but the court may not, require the offender to be in any place or places for a period or periods of more than 12 hours in any one day.

(b) Gropping/unwanted physical conduct?

This may constitute assault which is provided for under [SECTION 2 OF THE NON-FATAL OFFENCES AGAINST THE PERSON ACT 1997](#).

A person shall be guilty of the offence of assault who intentionally or recklessly –

- directly or indirectly applies force to or causes an impact on the body of another, or
- causes another to believe on reasonable grounds that he or she is likely immediately to be subjected to any such force or impact,
- without the consent of that other person.


Therefore, assault may occur even where there is no actual physical contact, but the victim reasonably believes they will be exposed to force.

An offence will not be committed if the force or impact is generally acceptable in daily life and if the offender does not know or believe that it is in fact unacceptable to the other person. An example may include a friendly pat on the back to say hello.

This is a summary offence, meaning that it is dealt with by the District Court (as opposed to an indictable offence – see above for distinction). Therefore this is one of the less serious criminal offences that come before the Courts. A person guilty of an offence under Section 2 shall be liable on summary conviction to a fine not exceeding €1,905 or to imprisonment for a term not exceeding 6 months or to both.

A restriction on movement order referred to at 2(a) above may also be applied against the person guilty of such an offence.


(c) Public masturbation?

A person shall be guilty of an offence if they act in a way that offends the modesty or causes scandal or injures the morals of the community in a public place. ([SECTION 18 CRIMINAL LAW AMENDMENT ACT, 1935](#) )

A person guilty of such an offence shall be liable to a fine not exceeding €634.00 or imprisonment for any term not exceeding six months, or both.

An example of such behaviour occurred when a 61 year old taxi driver pulled down his trousers and under-pants in his car and began masturbating. He was seen by an 81 year old woman who was passing by the car. The taxi driver claimed he was applying a gel for medical reasons. The taxi driver was fined €400 for offending public decency.

(d) Public exposure?

A person shall be guilty of an offence if they act in a way that offends the modesty or causes scandal or injures the morals of the community in a public place. ([SECTION 18 CRIMINAL LAW AMENDMENT ACT, 1935](#) )

This is a summary offence meaning that it is dealt with by the District Court. Therefore, this is one of the less serious criminal offences that come before the Courts. A person guilty of such an offence would be liable to a fine not exceeding (€634.00) or to imprisonment for a term not exceeding 3 months or to both.

A young man who carried out lewd acts while following young women in his car pleaded guilty to indecent acts in a public place. The Judge adjourned the matter for a year for a Garda Behaviour Report to be prepared and see if the offender behaved himself in the meantime. The offender attended counselling and the Judge applied Section 1.2 of the Probation of Offenders Act 1907, which is a type of official warning where the case is proven, but where a sentence is not actually imposed. The judge was satisfied to apply the Probation Act provided the offender continued counselling.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

All claims of harassment should be reported to **An Garda Síochána** [↗](#) in the victim's local area. In the case of an emergency dial **999** or alternatively call your local Garda Station to report the incident/crime.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

Whenever you report a crime to An Garda Síochána, whether you are a victim or a witness, An Garda Síochána will ask you to:

- Provide as much information as you can about the offence;
- Tell An Garda Síochána if you have any concerns about your (or your family's) safety, so they can give you appropriate advice;
- Provide your full address and telephone contact details. This will allow An Garda Síochána to update you with the progress of the investigation;
- Update An Garda Síochána with any other changes – you may have noticed further losses or damage since you first reported the offence, or you may be suffering further effects from an injury caused by the crime.

The investigating Garda will ask you to make a statement which s/he will write down and get you to sign. The matter will then be investigated by the Garda. If you are the victim of the crime you should subsequently receive a letter in the mail from the Garda Superintendent giving you the name of the investigating Garda, the **PULSE** (computer) number of the crime, the telephone number of the Garda Station, and the number of **Crime Victims Helpline**.

After reporting the crime your case will be investigated, regardless of your gender, race, religion, ethnic origin, sexual orientation, age, economic circumstances or membership of any minority group.

DURING THE INVESTIGATION

During the investigation stage, Gardaí will gather all available evidence, such as CCTV, fingerprints or DNA and a file will be prepared in serious cases and submitted to the Director of Public Prosecutions.

If a suspect is due to appear in court, An Garda Síochána will:

- Tell you whether the accused is in custody or on bail and the conditions attached to the bail;
- Tell you the time, date and location of the court hearings;
- Explain the prosecution process involved;
- Tell you if you are likely to be called as a witness and if so tell you about the help

available from victim support organisations;

- Tell you when a judge may ask for a “victim impact statement”;
- Tell you about court expenses;
- Tell you the final outcome of the trial.

Please remember to inform Gardaí if your contact details change, quoting your PULSE incident number, so that An Garda Síochána can keep you up to date with any developments.

Gardaí are committed to addressing your needs and concerns in an understanding and problem-solving manner. The following sections contain information that may assist you with any queries or assistance you may request.

More details available on the An Garda Síochána website [🔗](#)

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific national anti-harassment policies but Dublin City Council has put in place a local initiative.

Dublin City Council, on the 20th of February 2013, signed up to the **United Nations Women Safe Cities Global Programme (SCGP)**. The SCGP works in cities across the globe to prevent and reduce sexual harassment and violence in public places. Dublin is the first city in the first world to sign up to the initiative. Participation in the programme involves:

- Initial scoping study to establish an indication of the levels and pervasiveness of harassment and violence in the city. The study can focus on a specific geographic area or a particular group of women.
- A strong monitoring and evaluation element over time and before and after any programme intervention.
- Establishment of a working group to propose and implement a programme intervention.

The intervention could range from a tech innovation using mobile technology for recording or informing policing strategies; awareness raising campaign; gender safety audits; mainstreaming of gender safety into urban planning; policy or legislative responses; low tech solutions such as better lighting / signage in a particular area.

Dublin City Council has a working group in place to drive the initiative on and has invited representatives of women’s organisations, An Garda Síochána, the Department of Justice and Equality, Mandate Trade Union (which has a large female membership), employers and the statutory Equality Authority to participate.

Dublin City Council will pay for the initial research but it will not have the budget to implement interventions without support from private companies and other public organisations.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, the laws are the same throughout the Republic of Ireland.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Victims of Crime in Ireland, support helpline is [116006](tel:116006).

Gardaí have established a number of liaison services to provide tailored support to victims. You can avail of any of these services by contacting your local Garda Station.

Victims who are tourists are referred to the **Irish Tourist Assistance Service (ITAS)** by An Garda Síochana for support services available to them.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The complaint will be investigated by An Garda Síochana as outlined in point 3 and depending on the severity of the harassment, the offender may be prosecuted before the courts and if found guilty the prescribed penalty will be applied.

It is difficult to determine the likelihood of achieving a conviction as each case will be different and turn on the individual facts. For example, if the person who has committed the act of harassment cannot be found or identified, there is little prospect of the Gardaí taking the case any further, however, they will carry out initial investigations in an attempt to identify the offender through witness statements, CCTV footage etc.

In order for there to be a successful prosecution there must be sufficient evidence to find the suspect guilty of the offence beyond reasonable doubt. Further, even where a suspect is found and arrested and there is sufficient evidence to warrant them being charged with a criminal offence, in many cases (provided they do not have a significant record of previous convictions) they will be given a caution, in essence a formal 'telling off' from the Gardaí which means the case will not go any further and will not go to Court.

However, not all cases result in only a caution and if a suspect is found guilty of an offence, a Judge will look at the following factors when making his/her decision to impose a sentence:

- Whether or not the offender pleaded guilty to the offence
- The facts of the offence – the circumstances in which the offence occurred

- Whether there were any aggravating factors in relation to the offence – such as particularly violent or cruel behaviour
- The offender’s previous criminal record
- The offender’s character
- The offender’s age
- The offender’s family circumstances
- Whether the offender is employed
- Whether the offender is sorry for what they have done
- Whether certain types of treatment may help or reform the offender
- The impact of the offence on the victim
- Any other relevant information about the offender (for example, if you are in bad health)

Despite the above, it is always worthwhile reporting any incidents of Street Harassment, however unlikely it may seem that the offender will be caught and prosecuted. An Garda Síochána log all complaints and are able to collate reports of a similar type to establish patterns and detect repeat offenders.

ISRAEL

LEGAL CONTACTS:

Barry Levenfield, Shallya Scher, Yigal Arnon & Co

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Although street harassment is not dealt with in a specific law, many elements of street harassment were made unlawful under the law for the [PREVENTION OF SEXUAL HARASSMENT 1998 \(THE "PREVENTION OF SEXUAL HARASSMENT LAW"\)](#) and certain provisions of the [PENAL LAW, 1977, \(THE "PENAL LAW"\)](#).

[Sexual Harassment law](#) 

[Penal Law](#) 

The [PREVENTION OF SEXUAL HARASSMENT LAW](#) aims to prohibit behaviour which is an affront to human dignity and aims to promote equality between the sexes. The [SEXUAL HARASSMENT LAW](#) prohibits a broad range of behaviour of both a verbal and physical nature (detailed in Section 2).

In accordance with the [PENAL LAW SECTION 387](#) it is forbidden to assault someone (detailed in Section 2b).

[S348 OF THE PENAL LAW](#) prohibits an [Indecent Act](#). An Indecent Act is defined as a public act of arousal, satisfaction and sexual humiliation, (detailed in section 2c).

In accordance with the [PREVENTION OF SEXUAL HARASSMENT LAW](#), Section 5(a), a person who sexually harasses another person is liable to a term of two years in prison. According to Section 6(b) a person may also sue under civil law for sexual harassment for an amount up to NIS 120,000 without the need to prove damages.

The laws are interpreted in broad manner by the courts, below are a few examples:

- In the Supreme Court case (9603/08) the court convicted someone of taking pictures of women and children on his cell phone without their consent. The pictures focused on covered sexual organs and were found to be sexual in nature. The court ruled that this was an 'indecent act' even though it involved no physical contact between the perpetrator and the victims.
- In a district court decision (Petach Tikvah 3662-120) a bus driver was convicted of sexual harassment as he made repeated propositions of a sexual nature to a passenger and also stroked her hair.
- In a court decision a taxi driver was convicted, among other things, of sexual harassment after he exposed his genital organs to a passenger and offered her twenty shekel to go out for coffee with him. (Supreme Court 4883/11).

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

In accordance with the [PREVENTION OF SEXUAL HARASSMENT LAW, SECTION 3](#):

- It is prohibited to make repeated propositions of a sexual nature to a person, where that person has shown the harasser that he is not interested in the said propositions.
- It is prohibited to make repeated references directed towards a person, which focus on his sexuality, where that person has shown to the harasser that he is not interested in the said references.
- It is prohibited to make an intimidating or humiliating reference directed towards a person concerning his sex, or his sexuality, including his sexual tendencies.
- If the person being harassed is a minor or helpless person then there is no requirement to show the harasser that he is not interested in the references or propositions.
- In accordance with the [PREVENTION OF SEXUAL HARASSMENT LAW, SECTION 5\(A\)](#), a person who sexually harasses another person is liable to a term of two years in prison. According to [SECTION 6\(B\)](#) a person may also sue under civil law for sexual harassment for an amount up to NIS 120,000 without the need to prove damages.

(b) Groping/unwanted physical conduct?

In accordance with the [PENAL LAW SECTION 387](#) it is forbidden to assault someone.

Assault is defined as striking, touching pushing or otherwise applying force to another person, whether directly or indirectly without his consent. If a person gives consent but the consent was obtained in a fraudulent manner then the act will still be forbidden.

For common assault a person may be liable to up to two years in jail.

(c) Public masturbation?

Although not mentioned explicitly in [SECTION 348 OF THE PENAL LAW](#), which is referenced in [SECTION 3\(A\) OF THE PREVENTION OF SEXUAL HARASSMENT LAW](#), it is forbidden to perform an "Indecent Act". An Indecent Act is defined as a public act of arousal, satisfaction and sexual humiliation. Public masturbation would fall into this category.

According to [SECTION 348\(C\) OF THE PENAL LAW](#), if a person commits an indecent act against a person without their consent, but not in the case of rape or sodomy, he may be liable to three years of imprisonment.

According to [SECTION 348\(C1\) OF THE PENAL LAW](#), if a person commits an indecent act against a person, by way of force or by another form of pressure, but not in the case of rape or sodomy, he may be liable to seven years of imprisonment.

According to [SECTION 348\(D\)\(1\)](#) if a person commits an indecent act in any place whatsoever in front of a person who has not yet reached age 16, he may be liable to four years of imprisonment.

(d) Public exposure?

Public exposure is not specifically prohibited in Israel, if however the exposure is amount to an Indecent Act it will be prohibited, as defined above.

(Refer to sanction detailed above in 2(c)).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

A victim of sexual harassment has a number of resources and hotlines available to them prior to deciding if they wish to report the incident. The following list can give both information and emotional support.

Rape Crisis Center – National Hotline for Women [🔗](#)

The Rape Crisis hotline provides broad support for a wide range of sexual harassment and is available 24 hours a day, seven days a week. It is a good resource to acquire further information or referrals.

Tel: [1202](#)

Hotline in Arabic: [04-6566813](#)

Men: [1203](#)

ERAN – Emergency Emotional Support

Tel: [1202](#) (24 hours a day)

Hotline in Russian: [1-800-241-201](#)

WIZO – National Hotline for Battered Women

Tel: [1-800-22-000](#) (Sun – Friday 8am – 10pm)

Legal advice Tel: [03-6923790](#)

Na'amat – legal advice tel: [03-5254422](#)

Israel Women's Network offers legal advice about sexual harassment at work

Tel: [03-6120000](#). Available on Sundays or Thursdays, from 17:00–19:00 or Tuesdays

11:00–13:00.

If the victim wishes to report the incident they should do so as soon as possible at the local police station. (Police tel: [100](#))

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

CRIMINAL PROCESS

The first step is to report the incident with the police (tel: 100). The victim will be required to include as many of the details of the incident as possible and file a complaint. If the crime is of a sexual nature the victim may request accompaniment from the **Rape Crisis Hotline** (details in s3).

The victim will be required to share details of a personal nature. The police may also request that the victim return at an additional date for further questioning. The victim will be given a file number which will allow them to follow the progress of the file.

The police will have discretion to decide if they will take further investigative measures. Further information may be accessed here [🔗](#).

CIVIL LAW

A person who does not wish to go through the criminal process may also sue someone through the civil process. In this case the victim would need to acquire the assistance of a lawyer.

The advantage of going through the criminal process is that the state handles the process. The advantage to the civil law is that a lower level of proof is required (above 50%) whereas in the criminal law process it is necessary to provide proof beyond a reasonable doubt.

A victim of sexual harassment may choose to act through both the civil and criminal process pursuant to Section 6 of the Prevention of Sexual Harassment Law.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific policies to prevent street harassment; however there has been increased awareness of the phenomenon in the last few years.

The **PREVENTION OF SEXUAL HARASSMENT LAW, SECTION 7**, requires an employees to have an anti sexual harassment policy in the order to minimise cases of sexual harassment and have a complaint procedure in the case where sexual harassment does occur.

Universities and public institution also have anti sexual harassment policies, for example, the Hebrew University Policy [🔗](#).

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

From the date of the sexual harassment the person who is harassed has seven years to file a claim.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Assessing what would happen after a complaint is filed depends greatly on the circumstances of the event. The more details a victim has of the perpetrator, the severity of the case and if there were any witnesses will affect the chances of the complaint leading to an indictment. If the police do not have enough information they may be forced to close the file.

However one should be aware that even if the chances of an individual complaint proceeding to an indictment may be small there still may be value in reporting the case as it could become relevant in the future in the case of a repeat offender.

ITALY

LEGAL CONTACTS:

Raffaella Quintana, Ilaria Curti, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of specific laws which make street harassment illegal.

- (a) Repeated behaviours in a public place which are likely to cause harassment or distress are against the law.

Specifically, under [SECTION 660 OF THE ITALIAN CRIMINAL CODE \('ICC'\)](#), a person is guilty if, for a reprehensible reason, in a public place, they disturb or harass someone.

This is a crime of minor seriousness that would include repeated behaviours like swearing at someone in the street, or making unwanted or inappropriate sexual comments.

- (b) Using insulting words in a public place which is likely to offend the reputation and respectability of someone is against the law.

Specifically, under [SECTION 594 OF THE ICC](#), a person is guilty if they insult someone or offend her/his reputation and respectability.

This is a crime of minor seriousness that would include behaviours like insulting someone with words that offend their sexual dignity.

- (c) Committing obscene behaviours in a public place is against the law.

Specifically, under [SECTION 527 OF THE ICC](#), a person commits an offence if he/she intentionally carries out obscene conduct.

This crime would include both genital exposure and masturbation in public (e.g. in a street, in a park, on public transportation).

- (d) Forcing someone to carry out or tolerate a sexual act, which incorporates groping, is against the law.

Specifically, under section of the [SECTION 609 BIS ICC](#), a person commits the crime of sexual assault if, by using violence or threat or by simply taking advantage from the physical or psychological inferiority of the victim, forces someone to carry out or tolerate sexual acts.

This is a very serious crime that would include not only raping but also groping a woman in a public place without the use of force or threat. Italian Courts, in fact, recognize always the physical vulnerability of a woman with respect to a man and, on the basis of this interpretation, there are many criminal proceedings for sexual assault in Italy against men who groped women on public transportation.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. Verbal harassment is considered a crime as outlined in paragraph 1.a and 1.b. above.

(b) Groping/unwanted physical conduct?

Groping may be classified as sexual assault (see 1.d above) while unwanted physical conduct is not a crime.

(c) Public masturbation?

Public masturbation is considered a crime as outlined in paragraph 1.c.

(d) Public exposure?

Public exposure is considered a crime as outlined in paragraph 1.c.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Acts of harassment can be reported to the police. In order to ask for Police intervention, dial [112](#) (Carabinieri) or [113](#) (Polizia).


In order to report the crime the victim can:

- (1) tell the Police the facts;
- (2) file before the Public Prosecutor office or before a Police station a written report.

In any case it is important to share detailed information about the concerning action in order to find and prosecute the harasser.

The victims can call the public hotline [1522](#) in order to receive help, information and support. The telephone operators speak Italian, English, French, Spanish, Russian and Arabic. From 2010, the emergency cases are managed also with the involvement of the Police.

There is also a number of private organisations designed to help the victims of sexual assault and harassment, among which are the following:

- (1) [Telefono Rosa](#) ;
- (2) [Doppia Difesa](#) 
- (3) Various local anti-violence centres 

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The police will log the report of a crime and should provide you with a 'crime number' for further reference. They would usually wish to take a statement from you as a basis for the complaint. There is no right to anonymity.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific national anti-harassment policies but there a number of local initiatives in different areas.

In Rome there is women-only discounted taxi service '**Per Lei Radio Taxi 3570**' (dial [06.3570.1](tel:06.3570.1)) from 1.00 to 5.00 am that ensures passengers are safely inside their home before leaving.

The same initiative is also active in Milan (dial [02.8585](tel:02.8585)).

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, it is national law.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No, there is nothing specific to add.

MEXICO

LEGAL CONTACT:

Rocío Arredondo Eguren, *Hewlett Packard*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes, it is. Statutes governing harassment do not delineate specific conducts or examples that may be considered harassment but rather provide a generic definition with a wide scope that may encompass violent and abusive conducts that ultimately may be considered harassment. A case-by-case analysis must be performed to determine if a certain conduct falls within the scope of the definition.

In this regard it must be mentioned that there are several legal definitions for harassment as many statutes govern this conduct depending on different factors. However, from the common elements in those definitions, harassment can be defined as a form of violence where there is a behaviour entailing risk or defencelessness to a certain person and an affliction to such person's physical or mental integrity, security and freedom.

Harassment is governed by each of the states' statutes, nevertheless, for consistency purposes these questions will be answered based upon the Federal statutes which are often mirrored by local provisions. In this regard, the most relevant legal provisions are the following:

FEDERAL CRIMINAL CODE

ARTICLE 259 BIS OF THE FEDERAL CRIMINAL CODE sets forth that whoever harasses an individual taking advantage of a higher position (employer-employee, teacher-pupil, or any other where there is subordination) will be fined with up to the equivalent of up to 40 days of daily minimum wage. For this fine to be effective, damage to the subject accusing harassment must be proven.

FEDERAL LABOR ACT (*there are no local labor statutes*)

ARTICLE 133 SECTIONS XII AND XIII forbid employers from harassing, tolerating harassment or fostering harassment in any manner.

In case the employer fails to observe such obligation, **ARTICLE 994 SECTION VI** provides that he/she will be subject to a fine between 250 to 5000 times the minimum daily wage (current minimum daily wage is around 5 USD).

In case harassment happens between co-workers, **ARTICLE 47 SECTION VIII** provides that the active subject will be terminated immediately.

It is worth noting that there are some other statutes (international treaties to which Mexico is party, federal statutes and state statutes) governing and forbidding harassment against women, physically or mentally impaired individuals, children and elders. Notably, the Federal Government has recently started a strong campaign against bullying due to a substantial increase of school harassment. Some states and the Federal District have already enacted laws forbidding and punishing bullying at educational settings.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. Since there is no legal definition for “*verbal harassment*” *per se*, the harmful behaviour will fall within the scope of the provisions set out in the foregoing section depending if it happened at the workplace, school, street, etc. and the damage it may have caused to the harassed individual.

One notable case involved a physics professor and a female student at one of Mexico’s most prestigious universities. The student’s mother filed a complaint before the **National Human Rights Commission** for unwanted sexual remarks and innuendos from the professor in order for the student to get a passing grade in an exam.

According to the press, the harassment began when, on the day of the exam, the professor asked the student if she wanted to pass. She replied that she wanted to but that she had studied for it. The professor said that there could be a way to get a better grade and then wrote down the word “kisses” on the student’s exam. She did not reply and the professor immediately erased what he had written.

Once the student took the exam, she noticed that she had failed it and that the grade stamped on the exam had a question mark next to it. The student reported the situation to the school’s authorities and to the National Human Rights Commission. She was asked to get some additional evidence to build a solid case against the professor.

She then spoke to him about the grade and he told her that she could still get a 9 out of 10. She asked how and he wrote down “kisses” on a sheet of paper. Then she asked when and he wrote “Wednesday” on the same paper. She then tried to take that sheet of paper with her and he violently grabbed her by the neck and stopping her from doing it. A couple of male friends to which the student had asked to stay outside the classroom in case anything happened recorded the situation and helped the student to be released when the professor was holding her by the neck.

The University got an official recommendation from the Commission, the professor was separated from his post and is now being prosecuted and awaiting trial for sexual harassment and physical injuries.

(b) Groping/unwanted physical conduct?

Groping or unwanted physical conduct may amount to sexual assault under [ARTICLE 260 OF THE FEDERAL CRIMINAL CODE](#) and is punished with up to ten years in prison and the equivalent to 200 times the minimum daily wage.

This conduct can also fall within the scope of the labor-related legal provisions described in the foregoing section.

One notable case took place in 2012 involving a high-ranking officer at the National Human Rights Commission. Three former female Commission officers of the filed a complaint before the commission and a criminal complaint before the public prosecutor for sexual harassment and unwanted physical contact.

The complainants claimed that the harasser often sent them emails, text messages and made verbal remarks with explicit sexual content and kissed them on the neck, touched them suggestively and hugged them unannounced and unwantedly.

The officer resigned from his post but still was ordered to pay a monetary fine by both the public prosecutor and he is currently undergoing a criminal trial in prison for sexual assault and sexual harassment.

(c) Public masturbation?

There is no specific provision imposing a penalty on public masturbation, however, there may be some cases in which such behaviour may be subject to penalties.

Statutes governing this matter vary from state to state. For example, in the Federal District the [CIVIL CULTURE ACT](#) does not set forth any provision regarding public sexual exposure. Nevertheless, [ARTICLE 23 SECTION I OF THE CIVIC CULTURE ACT](#) provides that whoever being bothered and harmed by a third party's actions can file a complaint and a penalty will be imposed on the offender insofar the alleged harm is proven.

Hence, if a person were masturbating in public, the person who felt offended by such action must call the police, file a complaint and appear before the civic judge to explain how and why it felt offended. If the judge deems it prudent, a fine or even prison for a few days will be imposed on the offender.

Conversely, in some in Jalisco state such as Zapopan in the state of Jalisco, [ARTICLE 28 SECTION IV OF THE REGULATIONS FOR POLICE AND GOOD GOVERNANCE](#) sets forth that public sexual displays are to be penalized with a warning, a fine or arrest. Other than the warning, the judge will define the applicable penalty.

Then, if a person were caught masturbating in public in Zapopan, the police would arrest them, bring it before the civic judge and the latter would determine the applicable penalty.

(d) Public exposure?

The explanation provided in **(c)** applies for this section as well.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

If harassment is to be reported at the moment it is actually happening it could be reported to the local police although it is unlikely that the police will be able to witness the harassment since this type of activity are generally concealed or not easily spotted by third parties not subject to it.

If harassment takes place on a constant basis it may be reported to the Public Prosecutor to start a criminal investigation or to corporate or labor authorities to start an internal investigation should the case be at the workplace.

There is no mandatory procedure to report harassment as there are several options on how to proceed, e.g. **National Woman Institute, National Human Rights Commission, National Discrimination Prevention Commission** and other NGO's. However, the most effective proceedings in terms of penalties imposed to the harasser or whoever fosters or tolerates harassment is through the public prosecutor or labor authorities since they would ultimately lead to the imposition of a penalty by a judge or a labor authority duly empowered to do so.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

If the victim decides to file a criminal complaint, such complaint has to be reported to the public prosecutor for it to start the investigation. The alleged victim would have to provide a detailed description of the facts on which the complaint is grounded.

If from the results of the investigation it is determined that there was indeed harassment, the public prosecutor will submit the criminal complaint before a judge for criminal matters who will conduct the trial against the suspected offender. These proceedings are public unless there is a very sensitive matter that, at the prosecutor's discretion, is subject of confidentiality. There is no right to anonymity since one of the constitutional rights of every person subject to a criminal proceeding in Mexico is the right to know its accuser.

If harassment takes place in the workplace and it came from a co-worker, the procedures to prosecute and punish the offender differ between companies; there is no standard procedure.

However, if harassment takes place in the workplace and the employer or its representatives are the suspected offenders or are suspected of tolerating or fostering harassment, then the employee must file a complaint before the Labor Ministry. The investigations division of the Ministry will then appoint an investigator who will start to gather evidence in regards to the claim (summon the employer or its representatives and witnesses, visit the premises where the alleged harassment takes place, review

CCTV footage, etc.). If the investigation shows that there was indeed harassment, a fine will be imposed on the perpetrator. This fine can be challenged by means of an administrative trial (*juicio de nulidad*) and a constitutional trial (*amparo*).

There are some other proceedings that may be commenced before government entities such as the National Women Institute or the National Human Rights Commission for a case of harassment to be heard. Nevertheless, these other proceedings do not produce material effects but rather only recommendations or declarative opinions or findings.

It is worth noting that all these proceedings (except the *amparo*) can coexist and accumulate. The outcome of each of them is independent from the others.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

Yes. Harassment against women is the most common issue addressed by government and the civil society. These policies include but are not limited to TV and radio ads, street demonstrations, conferences, call-centres, etc.

To avoid sexual harassment in major cities' public transportation systems policies such as women-only taxicabs and women-only carriages in the subway and city buses are being implemented. Currently, Mexico City is the only place in the country where these policies are fully in-place.

Furthermore, as it was already mentioned, a strong campaign to raise awareness about school bullying, how to avoid it and how to deal with it is currently undergoing. Major civil organizations and the federal government are deeply involved in fighting this type of harassment.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, they are all very similar.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Since harassment is not particularly defined or governed by a single statute, in case one is under the impression of being harassed it may turn out difficult to identify which the precise provision to apply is or if the conduct to which one is being subjected is even harassment under a legal perspective.

Thus, whenever one feels harassed and specially when the behaviour that may be considered such is truly harming or affecting one's lifestyle or comfort it is strongly advisable to resort to legal counsel from either the public entities specifically in charge

of harassment cases (**National Human Rights Commission, National Women's Institute**, NGOs, etc.), friends or family to decide the best course of action.

If the conduct is indeed a type of harassment it may be necessary to seek professional legal advice and then start all the legal proceedings that one may choose to pursue depending on the particular and relevant circumstances of the case and the subject.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Since harassment claims are a sensitive matter for both the harasser and victim, a procedure of this nature is most likely to succeed if there is solid, unquestionable evidence that there harassment indeed took place against the accusing party. If this is the case, then the offender could be sentenced to prison, to pay a fine to the state and to pay for the emotional distress or harm that it may have inflicted over the victim.

It must not be overlooked that a proceeding of this nature may last several years since any fine or penalty imposed to an offender may be challenged before administrative and judicial authorities.

NEPAL

LEGAL CONTACT:

Anjan Neupane, *Neupane Law Associates*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. [SOME PUBLIC OFFENCES AND PUNISHMENT ACT, 2027](#)³¹ makes street harassment illegal. The following behaviour is illegal:

- Disturbing the peace by displaying vulgar signs, speech, or displaying vulgarity in public ([SECTION 2\(C\)](#))
- Harassing women in public by touching ([SECTION 2\(G\)](#))
- Behaving in an uncivil manner in a public place ([SECTION 2\(H\)](#))

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. Disturbing the peace by displaying vulgar signs, speech, or displaying vulgarity in public is illegal under [SECTION 2\(C\) OF THE SOME PUBLIC OFFENCES AND PUNISHMENT ACT, 2027](#).

(b) Groping/unwanted physical conduct?

Yes. Harassing women in public by touching is illegal under [SECTION 2\(G\)](#) of the [SOME PUBLIC OFFENCES AND PUNISHMENT ACT, 2027](#).

(c) Public masturbation?

Yes. Displaying vulgarity in public is illegal under [SECTION 2\(C\) OF SOME PUBLIC OFFENCES AND PUNISHMENT ACT, 2027](#).

(d) Public exposure?

Yes. Displaying vulgarity in public is illegal under [SECTION 2\(C\) OF SOME PUBLIC OFFENCES AND PUNISHMENT ACT, 2027](#).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Any instances of harassment can be reported to the police. In emergencies call the Police Control [100](#) or Police Emergency Number [4228435](#) or [4226853](#).

You can also report harassment to any police in duty nearby or the nearest police station.

³¹ This is 1970 in the Western calendar.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The police have the right to immediately arrest the suspect without warrant. However, the police may ask for a written complaint.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific harassment policies.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, they are the same throughout Nepal.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Whilst in principle there are a wide variety of laws which prohibit various types of behaviour that would come under the heading of Street Harassment, the reality of enforcement is somewhat different.

The first point to note is that if the person who has committed the act of harassment cannot be found or identified there is little prospect of the police or prosecuting authorities taking the case any further.

Further, even where a suspect is found and arrested and there is sufficient evidence to warrant them being charged with a criminal offence, they may be let off by the Chief District Officer because of their lack of previous criminal record under [SECTION 6 OF THE SOME PUBLIC OFFENCES AND PUNISHMENT ACT, 2077](#).

Despite the above it is always worthwhile reporting any incidents of Street Harassment, however unlikely it may seem that the offender will be caught and prosecuted.

NEW ZEALAND

LEGAL CONTACTS:

Adam Holloway, Igor Tokmadzic, *DLA Phillips Fox*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Street harassment will be against the law in specific circumstances. It is an offence to use offensive language or behave in an offensive manner in a public place (as per [SECTION 4 OF THE SUMMARY OFFENCES ACT 1981](#)).

This means that it is an offence for a person in (or within hearing distance of) a public place to:

- Act in an offensive way;
- Address someone, intending to threaten, alarm, insult or offend him or her;
- Use threatening or insulting words and be reckless as to whether anyone is alarmed or insulted by those words;
- Address indecent or obscene words at any person; or
- More generally, use any indecent or obscene words.

Various other forms of street harassment are also against the law, as discussed in more detail under question 2 below.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

As mentioned above, it will be a summary offence (referred to as offensive behaviour or language) (as per [SECTION 4 OF THE SUMMARY OFFENCES ACT 1981](#)) for a person in a public place (or within hearing distance of one) to:

- Act in an offensive way;
- Address someone, intending to threaten, alarm, insult or offend him or her;
- Use threatening or insulting words and be reckless as to whether anyone is alarmed or insulted by those words;
- Address indecent or obscene words at any person; or
- More generally, use any indecent or obscene words.

Verbal harassment will also be a summary offence (called intimidation) where a person, either intending to frighten or intimidate, or knowing that what he or she is doing is likely to have this effect:

- threatens to injure another (or his or her family);

- threatens to damage another’s property;
- watches or loiters near a place where another happens to be; or
- stops, confronts or accosts another in a public place (as per [SECTION 21\(1\) OF THE SUMMARY OFFENCES ACT 1981](#)).

Verbal harassment that threatens any force (by any act or gesture, where the person either can or makes you think they can carry it out) may also be considered assault (which is discussed in more detail below under **(b)** (as per [SECTIONS 2\(1\) OF THE CRIMES ACT 1961 AND 2\(1\) OF THE SUMMARY OFFENCES ACT 1981](#)).

(b) Groping/unwanted physical conduct?

There is no specific law against groping/unwanted physical conduct. However, depending on the type of conduct, it is likely to fall under sexual violation or assault.

[Sexual violation](#) is considered a crime, and will occur when a person has unlawful sexual connection with another. This occurs by a person either inserting something into another’s genitalia or anus, the contact between one person’s tongue or mouth with another’s genitalia or anus, or continuing this type of contact, to any degree, without consent (as per [SECTION 2\(1\) AND 128 OF THE CRIMES ACT 1961](#)). It’s also a crime to attempt a sexual violation with the intent to commit one (as per [SECTION 129 OF THE CRIMES ACT 1961](#)).

[Assault](#) is also a crime, and will occur when a person applies (or tries to apply, or, as mentioned above, threatens to do so) any force (which does not need to be violent – touching might be enough – and which can be either direct or indirect) to another person (as per [SECTIONS 2\(1\) AND 196 OF THE CRIMES ACT 1961](#)). Further, it’s a (separate) crime for a man to assault a woman (per [SECTION 194\(B\) OF THE CRIMES ACT 1961](#)). Relatively-speaking, less serious assaults can also be dealt with as summary offences, where the same elements as above are met (as per [SECTIONS 2\(1\) AND 9 OF THE SUMMARY OFFENCES ACT 1981](#)).

(c) Public masturbation?

It’s a crime (called an [indecent act](#)) for people to masturbate in a public place (or within view of a public place) unless they reasonably believed that they wouldn’t be observed (per [SECTION 125 OF THE CRIMES ACT 1961](#)).

(d) Public exposure?

It’s an offence (called [indecent exposure](#)) for people to intentionally and obscenely expose any part of their genitals in a public place (or within view of a public place) unless they reasonably believed that they wouldn’t be observed (per [SECTION 27 OF THE SUMMARY OFFENCES ACT 1981](#)).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

You should report harassment to the New Zealand Police. In emergency situations, call [111](#) and ask for the Police. In non-emergency situations, contact the relevant region's crime reporting line (which operates through various phone numbers), or visit the nearest Police station if possible. The Police consider non-emergency situations to be those where incidents or crimes have already happened and a rapid response by them is not likely to affect the outcome.

Additionally, you can also report harassment to Crimestoppers on [0800 555 111](#) or online. Crimestoppers is an independent charity that allows you to pass on information anonymously to the authorities. The information that you give gets checked to make sure that you cannot be identified, before being sent to the Police (or another agency as need be). This way of reporting harassment is likely to take longer as the Police cannot act on anonymous information; they will need to conduct their own investigations before taking action.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

There are three main ways to report harassment directly: calling [111](#) (for emergencies), calling the local crime reporting line (for non-emergencies), or visiting the nearest Police station in person (also for non-emergencies). Note that the process you go through will be different if you report the harassment in another way (for example, to Crimestoppers).

Calling [111](#) will result in a Police unit being dispatched to talk to you, and to take matters further if needed. However, no matter how you report harassment, an internal Police file will be generated and the matter will be investigated.

The level of response will depend on the seriousness of the harassment complained of. For example, physical harassment (i.e. assault) is treated more seriously than verbal harassment. Further, the specific response will depend heavily on your own views – i.e. what you, as the victim, want to be done). Relatively lower-level harassment (for example, catcalling) is often reported simply so that a record (albeit an informal one) is created. This would likely result in a Police officer informally cautioning the harasser(s) if he/she/they can be identified, and then building on the record over time as needed if further harassment occurs in future.

For relatively more serious harassment, where a criminal case needs to be brought (or where you ask for a criminal case to be brought), you will need to give a formal statement to the Police. This is a permanent statement, and will need to contain information to identify the offender and specify what the harassment consisted of. If available, any corroborating or substantiating evidence will also be hugely helpful here.

Although there is a limited right to anonymity as a witness (as per [SECTION 110 OF THE EVIDENCE ACT 2006](#)), you are not likely to be able to remain anonymous when giving a formal statement to be used as evidence in a criminal case. Although people have a right to be free from harassment, people are also given the right to know who is accusing them of an offence.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

The only harassment-specific policy in effect is the [HARASSMENT ACT 1997](#) itself, which is aimed at patterns of behaviour as opposed to one-off incidents.

Beyond this, different forms of harassment are covered by various laws and provided for through many services (which are discussed in more detail below under [7](#)).

Various private services have instituted their own anti-harassment policies. For example, **Corporate Cabs** (a taxi service that operates throughout New Zealand's major centres, which is bookable on various numbers or [online](#)) ensures that unaccompanied female clients are safely within their destinations before driving off.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No. Because New Zealand is a unitary state, its laws are the same throughout.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

When reporting harassment in New Zealand, you have the right to be treated a certain way by the Police (as per the [VICTIMS' RIGHTS ACT 2002](#)). You should email the **Police's National Sexual Violence Team** at asa@police.govt.nz if you are concerned about how you were treated or how the investigation into your complaint was conducted; for example, if you feel that the Police have not:

- Treated you with courtesy and/or compassion;
- Respected your dignity and/or privacy;
- Properly advised you of services that are available to you;
- Kept you informed on how the investigation into your complaint is going; or
- Let you know whether (and what) charges were laid, and why or why not this was the outcome.

Although not directed at harassment, if you are traveling, you may wish to use the **SAFE** text message service. This is operated by mobile carriers within New Zealand,

and allows you to send a free text message to [7233](tel:7233) to record your travel intentions. Although the messages are not monitored, they are stored for anywhere between three months and one year (depending on the mobile carrier you are on). Messages sent to SAFE can be checked by Police later on to help them to find where you are.

You may also wish to contact **Victims Information** on [0800 650 654](tel:0800650654) or online [🔗](#). Victims Information provides services for people affected by crime, and can help connect you to appropriate channels. The organisation also provides information about moving through the justice system, and on what types of support you will be entitled to.

If you are physically injured or are suffering from the mental effects of sexual abuse you have suffered while in New Zealand, you will likely be covered by the Accident Compensation Corporation (ACC) scheme, even as a visitor to New Zealand. ACC will pay for your treatment and rehabilitation costs while you are in New Zealand. You can call [0800 101 996](tel:0800101996) or check online [🔗](#) to see if you will be covered.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The reality of what happens to people complained of will depend on the specific type of harassment. The difficulties of prosecuting lower-level offending, as a result of limited resources as well as what is able to be proved, mean that it is possible that nothing may happen to the person who harassed you.

The Police will also take what you want to happen as a result of the harassment into account. For lower-level harassment, Police can informally caution offenders (as individuals or as a group; for example, as is often the case at building sites or similar high-incidence contexts). Further, whatever the final outcome, complaints are recorded and kept in the Police's internal records. While this will not impact on the offender immediately, it means that if similar complaints come up in future, the Police can be quicker to react and build a case if needed.

Where evidence can be collected and an offender is prosecuted, various outcomes can result. The penalties that can be imposed, in relation to the types of harassment discussed above, are:

- For offensive behaviour or language (except the mere use of indecent/obscene words in or near a public place), a fine of up to NZD 1,000.00;
- For offensive behaviour or language (being the use of indecent or obscene words in or near a public place), a fine of up to NZD 500.00;
- For intimidation, imprisonment for up to three months or a fine of up to NZD 2,000.00;
- For sexual violation, imprisonment for up to 20 years;
- For attempted sexual violation, imprisonment for up to 10 years;
- For assault (under the Crimes Act), imprisonment for up to one year;

- For assault (under the Summary Proceedings Act), imprisonment for up to six months or a fine of up to NZD 4,000.00;
- For indecent acts in a public place, imprisonment for up to two years; and
- For indecent exposure, imprisonment for up to three months or a fine of up to NZD 2,000.00.

PERU

LEGAL CONTACT:

Jean Paul Borit Salinas, *Hewlett Packard Peru*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes; it is considered illegal and a crime in the [PERUVIAN PENAL CODE](#).

- [ARTICLE 183 OF THE PERUVIAN PENAL CODE \(OBSCENE EXHIBITIONS AND PUBLICATIONS\)](#) states that it is a felony to make exhibitions, gestures, signs, touching or any other obscene conduct in public. These crimes have a prison term of at least 2 years and at most 4 years. Inciting a minor (younger than 18 years old) to perform these obscene behaviors has a prison term of three to six years.

The most common examples of these crimes are unwanted sexual advances, either through words or signs or gestures, and inappropriate and unwanted touching, usually in public spaces like public transportation.

- [ARTICLE 176 OF THE PENAL CODE](#) establishes as a felony to, without intent to sexual intercourse, through violence or threats perform or force a person to perform, inappropriate touching or obscene acts. This can be punished with a prison term of at least 3 and at most 5 years. Though it could be applied to harassment in general, this requires violence or threats, making it harder to apply in the cases of street harassment.

Additionally, street harassment can be considered slander, since according to [ARTICLE 130 OF THE PENAL CODE](#), it covers any offense to a person's honor through words, gestures or other forms. This are considered private matters and won't be pursued by Public Prosecutors but by the claimant. Punishment for this crime is only community service or a fine. As stated above, unwanted sexual advances through gestures or words can be considered a crime under this law.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, but not specifically. [ARTICLE 183](#) considers a crime any obscene conduct, therefore, verbal harassment can be considered a crime as long as the words used can be considered obscene. Additionally, it can be considered libel since verbal harassment can also affect a person's honor.

(b) Groping/unwanted physical conduct?

Yes. Groping is expressly established as a crime, regulated either in [ARTICLE 183](#) or [ARTICLE 176](#) (if it is done through threat or violence).

Additionally, maltreatment of a person (physical harm that doesn't require treatment or rest) is considered an offense; since it's not a crime, it can only be punished through community service.

(c) Public masturbation?

Yes, but not specifically. Though it's not expressly established in the law, public masturbation may be considered an obscene conduct, and therefore a crime.


(d) Public exposure?

Yes, but not specifically. Peruvian Law doesn't expressly establish public exposure as a crime but it may be considered an obscene conduct, and therefore a crime.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Since harassment can be considered a crime, it must be reported to the police, as any other crime, in the nearest police station; it may also be reported directly to Public Prosecution.

There are no hotlines or any other kind of specific resources for these crimes; the Women and Vulnerable Populations Ministry offers a hotline ("**Linea 100**") and an online chat service ("**Chat 100**") for cases of domestic and/or sexual violence that may be used but are not specific for sexual harassment. More information can be obtained on [Ministerio de la mujer y poblaciones vulnerables](#) .

Though there are special Women's Police Stations and Women Emergency Centers, these are used mostly for domestic and sexual violence cases.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

Regular procedure would be to file a report and explain the crime, circumstances and data of the accused. With this information, police officers must prepare a Police Statement that would later be sent to a Judge and then to the Public Prosecutor. An investigation would ensue, however, it is hardly followed through in these cases, either due to lack of proof or interest by the police or public prosecution. After initial investigations are over, and depending on the decision made by the Public Prosecutor, a court case may start.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

The Women and Vulnerable Populations Ministry has a **National Program against Sexual and Domestic Violence**; however, so far it has only worked on violence and sexual harassment in the workplace.

Government doesn't have any other specific anti-harassment policies. As established above, campaigns against sexual harassment or fines for harassers may be approved by Municipal or Regional Governments.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

Municipal or Regional Governments aren't allowed to legislate in criminal matters. However, they may establish ordinances or other regulations to fine people or companies that engage in such activities.

For example, on September, 30th, 2013, the District of Surco, in Lima, passed [ORDINANCE N° 457-MSS](#), that punishes inappropriate behavior (defined as unwanted sexual advances, obscene gestures, sexual jokes, touching, etc.) in public commercial establishments or construction sites.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No, there is nothing specific to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Due to lack of interest from the Police or Public Prosecutors or the difficulty to obtain evidence, most cases are not pursued as law requires.

Furthermore, since it may difficult to provide a proper identification of the harasser, criminal investigation may not be pursued any further and cases won't reach the court, since Criminal procedures require the accused to be properly identified.

You should take into consideration that Peruvian Judges would hardly condemn a person to prison in any of these cases, since prison is mostly considered for the more grievous felonies and collecting evidence in these cases may be especially difficult. Additionally, when prison terms are too low, prison convictions may be suspended and the accused would be forced to comply with certain minor obligations (prohibition to leave the country, signing a document monthly, etc.)

If a case reaches the court and a condemnatory sentence is given, it may appear in their criminal record, a document required in most jobs and to travel abroad. However, this is only if the case reaches court level, and most information in Peru shows that harassment is seldom prosecuted.

Most women's rights associations suggest starting the available procedures, even if unsuccessful, if only to make enough noise to draw public opinion on this problem as it has happened before.

POLAND

LEGAL CONTACTS:

Agnieszka Lechman-Filipiak, Katarzyna Kopytowska, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Polish law does not expressly address street harassment (i.e. harassment in public places).

The only statutory regulations which outlaw harassment specifically are the [POLISH LABOUR CODE](#), which refers to harassment and sexual harassment in the workplace as being forms of discriminatory treatment in employment, and the [ACT DATED 3 DECEMBER 2010 ON IMPLEMENTING CERTAIN EUROPEAN UNION REGULATIONS ON EQUAL TREATMENT](#), which considers harassment and sexual harassment as forms of unequal treatment, in particular in the area of commencing and conducting business or professional activity, access to vocational training and access to social security.

Under both of these statutory acts, the aforementioned aspects of the discriminatory treatment are defined as:

- (a) **Harassment** – undesirable behaviour, whose purpose or effect is harming the dignity of a given person and creating a threatening, hostile, humiliating or insulting atmosphere around that person;
- (b) **Sexual Harassment** – all forms of undesirable behaviour of a sexual nature or relating to the sex of a person, whose purpose or effect is harming the dignity of a given person, in particular by creating a threatening, hostile, humiliating or insulting atmosphere around that person; this behaviour may comprise physical, verbal or non-verbal elements.

Although Polish law does not include specific provisions on street harassment, a person who falls victim to street harassment has certain legal means of protection against the perpetrator.

If the victim feels that his/her moral rights (in particular honour) have been violated by the perpetrator's unlawful behaviour, he/she can seek protection under Polish civil law. In particular, a victim of street harassment can demand that the perpetrator apologise in public (also in the form of a newspaper announcement) for his/her actions. Furthermore, the victim can demand damages if the violation of his/her moral rights resulted in any material loss, or compensation for any harm suffered. Instead of compensation, the victim can demand that a payment of a specified amount be made towards a certain social purpose (e.g. a foundation):

ARTICLE 24 OF THE POLISH CIVIL CODE

- §1. Any person whose moral rights are threatened by another person's actions may demand that these actions be ceased unless they are not

unlawful. In the case of an infringement, he/she may also demand that the person committing the infringement perform the actions necessary to remove its effects, in particular that the person make a declaration of the appropriate form and content. On the terms provided for in this Code, he/she may also demand monetary compensation or that an appropriate amount of money be paid to a specific public cause.

- §2. If, as a result of the infringement of a moral right, financial damage is caused, the aggrieved party may demand that the damage be remedied in accordance with general principles. (...)

ARTICLE 448 OF THE POLISH CIVIL CODE

In the event of the infringement of one's moral rights, the court may award the person whose rights have been infringed an appropriate amount as monetary compensation for the harm suffered or may, at his/her request, award an appropriate amount of money to be given for a social purpose chosen by him/her, irrespective of the other means necessary to remove the effects of the infringement (...).

Furthermore, certain actions covered by the term "street harassment" can qualify as misdemeanours or criminal offences against sexual freedom, morality, physical integrity or dignity under Polish penal law.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, this is an offence.

Under [ART. 216 § 1 OF THE POLISH PENAL CODE](#), any person who insults another person in his/her presence, or even in his/her absence but publicly or with the intention of the insult reaching the wronged person, is subject to a fine (generally from PLN 100 up to potentially PLN 1,080,000, taking into account the perpetrator's income, life, family and material situation; the fines for insults are generally quite low) or a restriction of liberty (from 1–12 months). The insult does not have to be verbal, it can also take the form of an insulting gesture or drawing; however, a verbal insult is the most common form. Verbal insults include, in particular, calling someone names, making inappropriate proposals (mostly of a sexual nature) to another person, using vulgar words to describe someone (e.g. bitch) or terms that are considered offensive only when used in a particular context (i.e. "couch" to describe a woman as a sexual object).

It should be underlined that if the insult was provoked by the victim or if the victim reacted by violating the perpetrator's physical integrity (e.g. by slapping his/her face) or responded with an insult, the court may decide not to impose any penalty.

Apart from qualifying as an insult, using obscene words in public can also be penalised as a misdemeanour under the Polish Misdemeanour Code and be subject to a

reprimand, a fine of up to PLN 1,500, or a restriction of liberty of one month ([ARTICLE 141 OF THE POLISH MISDEMEANOUR CODE](#)).

ARTICLE 141 OF THE POLISH MISDEMEANOUR CODE

Whoever, in a public place, places an indecent announcement, inscription or picture, or uses obscene words, is subject to a restriction of liberty, a fine of up to PLN 1,500, or a reprimand.

(b) **Groping/unwanted physical conduct?**

Yes.

Groping and any other unwanted physical contact (which does not cause any health disorder or results only in minimum bodily harm such as scratches) is classified as an offence under [ART. 217 OF THE POLISH PENAL CODE](#). The sanctions for unwanted physical contact are: a fine (generally from PLN 100 up to potentially PLN 1,080,000, taking into account the perpetrator's income, life, family and material situation; the fines for less serious forms of unwanted contact are generally quite low), a restriction of liberty (1–12 months), or imprisonment of up to one year.

As in the case of an insult, if the unwanted physical contact was provoked or the victim responded with the conduct of the same kind, the court may decide not to impose any penalty on the perpetrator.

ARTICLE 217 OF THE POLISH PENAL CODE

- §1. Whoever strikes a person, or in another manner violates his/her bodily integrity, shall be subject to a fine, a restriction of liberty, or imprisonment of up to one year.
- §2. If the act was caused by the provocative conduct of the injured person or if the injured person responded with an act of the same kind, the court may waive the imposition of a penalty.
- §3. Prosecution shall be by private accusation.

It should be underlined that an insult or a violation of physical integrity motivated by the victim's nationality, ethnic origin, race or religious beliefs is subject to imprisonment of up to three years ([ART. 257 OF THE POLISH PENAL CODE](#)).

ARTICLE 257 OF THE POLISH PENAL CODE

Whoever publicly insults a group within the population or a particular person because of his/her national, ethnic, racial or religious affiliation, or because of his/her lack of any religious denomination, or for these reasons violates the bodily integrity of another individual, shall be subject to a penalty of imprisonment of up to 3 years.

(c) Public masturbation?

Polish law does not expressly outlaw public masturbation in the presence of adults, however, it can be penalised as a misdemeanour, i.e. indecent excess, which is subject to detention (5–30 days), a restriction of liberty (one month), a fine of up to PLN 1,500, or a reprimand ([ART. 140 OF THE POLISH MISDEMEANOUR CODE](#)).

ARTICLE 140 OF THE POLISH MISDEMEANOUR CODE

Whoever publicly commits an indecent excess shall be subject to detention, a restriction of liberty, a fine of up to PLN 1,500, or a reprimand.

If the public masturbation causes outrage in a public place (e.g. it was witnessed by several people who felt uncomfortable or disgusted), under the [POLISH MISDEMEANOUR CODE \(ART. 51\)](#) it is subject to detention of 5–30 days, a restriction of liberty of one month, or a fine of PLN 20 to 5,000, taking into account the perpetrator's income, life, family and material situation.

ARTICLE 51 OF THE POLISH MISDEMEANOUR CODE

- §1. Whoever, by shouting, making noise, causing an alarm or another excess, disturbs the peace, public order, the quiet night time period, or causes outrage in a public place, shall be subject to detention, a restriction of liberty, or a fine. (...)

Polish law grants children special protection, therefore, public masturbation in the presence of a minor below 15 years of age in order to satisfy the perpetrator's sexual needs qualifies as a criminal offence which is subject to imprisonment for 2–12 years ([ART. 200 § 2 OF THE POLISH PENAL CODE](#)). Furthermore, in the event of a criminal conviction, the perpetrator can face further consequences as the court can also impose a ban on him/her performing certain or any occupational activities connected with the education, upbringing, medical treatment and care of children for an indefinite period of time, as well as a ban on being in certain places or contacting or approach certain people without a court's consent for a period of from 1 to 15 years or even for an indefinite period (during which time the perpetrator may be obliged to report to the police or other state authority with a specified frequency).

ARTICLE 200 OF THE POLISH PENAL CODE

- §1. Whoever has sexual intercourse with a minor under 15 years of age or makes him/her submit to or perform another sexual act shall be subject to a penalty of imprisonment for a term of between 2 and 12 years.
- §2. The same punishment shall be imposed on anyone who, to satisfy his/her own sexual needs, presents the performance of a sexual act to a minor under the age of 15.

(d) Public exposure?

Exhibitionism is not addressed specifically in Polish law, but meets the conditions to qualify as a misdemeanour, i.e. indecent excess, which is subject to detention (5–30 days), a restriction of liberty (one month), a fine of up to PLN 1,500, or a reprimand ([ART. 140 OF THE POLISH MISDEMEANOUR CODE](#)).

[ARTICLE 140 OF THE POLISH MISDEMEANOUR CODE](#)

Whoever publicly commits an indecent excess shall be subject to detention, a restriction of liberty, a fine of up to PLN 1,500, or a reprimand.

If it also causes outrage in a public place, such exposure is subject to detention (5–30 days), a restriction of liberty (one month), or a fine of PLN 20 to 5,000.

[ARTICLE 51 OF THE POLISH MISDEMEANOUR CODE](#)

§1. Whoever, by shouting, making noise, causing an alarm or another excess, disturbs the peace, public order, the quiet night time period, or causes outrage in a public place, shall be subject to detention, a restriction of liberty, or a fine.

The fact that the perpetrator was under the influence of alcohol or drugs is not a mitigating circumstance.

3 HOW SHOULD HARASSMENT BE REPORTED?

[e.g. to local police, specific hotlines or other dedicated anti-harassment resources](#)

All acts of street harassment, irrespective of whether they constitute a misdemeanour or a criminal offence, can be reported to the police – personally, by mail or by telephone.

The telephone number to the police is [997](#) or [112](#). The number [112](#) is the European emergency number – in Poland it is used for connecting with all emergency services (police, ambulance or fire service), therefore, it is possible that the victim will be connected with a service other than the police. If so, the telephone call will be redirected to the police.

There is no special hotline in Poland dedicated to reporting street harassment.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

[e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc](#)

In general, there is no right to anonymity when reporting criminal offences, however, if the police receive anonymous information about an alleged offence which is prosecuted *ex officio* (i.e. without an express motion for prosecution – in Poland, in order to prosecute only certain offences, a motion for prosecuting is required), it will take action to determine the identity of the perpetrator, the victim and the circumstances of the case. However, it should be underlined that the police are reluctant to do so in the case

of anonymous reports, in particular when the unlawful actions did not cause serious material or personal damage and it is difficult to establish the facts of the case. A limited right to anonymity can be exercised when giving evidence both in preparatory and court proceedings.

If a report is made at a police station, a protocol will be prepared. This will include the basic personal data of the reporting person and his/her statement on the facts of the case.

When the crime is reported, the police (or the prosecutor) are obliged to undertake certain actions to reach a decision whether information gathered is sufficient to prosecute reported actions. Once the perpetrator is identified and sufficient evidence is gathered, the public prosecutor (or the police) will make a decision on whether to bring charges against this person. The charges (indictment) will initiate the court proceedings.

Under Polish penal law, some offences (e.g. insults and unwanted physical contact) are prosecuted only under a private accusation, which means that the victim must individually bring an indictment before the court or file a complaint (oral or written) to the police who will send it to the court.

In general, in the case of misdemeanours, it is also possible not to initiate court proceedings, but to impose a fine of up to PLN 500 in the form of a ticket issued by a policeman or an officer of the municipal guard.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

No specific harassment policies have been adopted.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, the same statutory provisions apply throughout the whole country.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Although in Poland street harassment is an everyday problem, the issue itself has not been addressed properly by either the state authorities or the mass media. Unfortunately, the reported incidents of street harassment and the reporting persons are often treated with contempt. Apart from the shame which accompanies street harassment, this attitude of the authorities (in particular, the police) discourages victims from reporting unlawful behaviour as they fear that they will not be treated with proper respect and tact. In recent years there have been attempts to change this

situation, however, the solutions were adopted with the victims of more serious sexually-motivated offences (e.g. rape) in mind.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

In principle, reporting the committing of a misdemeanor or offence constituting street harassment should result in the proper reaction (i.e. prosecution and punishment) of the state authorities as with any other unlawful act. Only in case of certain offences must the victim display special initiative (please see our comments to question 4 above).

However, bearing in mind the specific nature of street harassment, enforceability in practice may be somewhat different.

Apart from the victim's reluctance to report street harassment, one of the obstacles to holding the perpetrator liable for his/her actions is to actually find and identify him/her, in particular when the incident is not reported soon after the unlawful behavior has taken place or other circumstances occur which make it more difficult to find the perpetrator (e.g. the groping took place in a subway or on a public bus).

The other challenge which the victim has to face is the lack of sufficient evidence required to charge the perpetrator with a criminal offence. Please note that acts of street harassment are often committed without the presence of any third person who could provide evidence as a witness, or witnesses of the incident are not willing to testify, which results in a situation in which it is the victim's word against the perpetrator's. Finally, the attitude of the police to less serious infringements (such as verbal harassment) may also stand in the way of prosecution – if the perpetrator has no previous record or previous convictions, the police often simply issue a warning (caution) to the perpetrator.

SOUTH AFRICA

LEGAL CONTACT:

Nerushka Deosaran, *Norton Rose Fulbright*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of laws which make street harassment illegal in South Africa.

PROTECTION FROM HARASSMENT ACT

- (1) The **PROTECTION FROM HARASSMENT ACT** (Act) prohibits all forms of harassment and sexual harassment. It allows you to apply for an order to protect yourself from a person who is harassing you. You can also apply for an order to protect someone that is a member of your family or that you are in a close relationship with.
- (2) The Act explains that **sexual harassment** is:
 - 2.1 When someone gives you sexual attention that you don't want, while knowing you don't want it.
 - 2.2 When someone behaves towards you in a sexual way. This could be something they say to you, either in person or through a message, that makes you feel uncomfortable, offends you, intimidates you or embarrasses you;
 - 2.3 When someone offers to do something for you and in exchange wants you to do something sexual for them;
 - 2.4 When someone asks you to do something sexual for them and threatens you with harm if you don't agree.
- (3) The act also specifically explains what **harassment** is. This is when someone does something to you or in your space that they know is going to harm you.
 - 3.1 Harm means mental, psychological, physical or emotional harm. This could be someone upsetting you so you can no longer concentrate at work, someone touching your body in a way you don't like or someone making you feel embarrassed and uncomfortable, to give a few examples.
 - 3.2 Harassment is behaviour that includes
 - (iii) hanging around your house, your workplace or where you study/ go to school or just where you happen to be;
 - (iv) speaking to you, either in person or through electronic communication (email/sms/facebook etc); or
 - (v) sending you letters, packages, emails or other similar kinds of communication.

DOMESTIC VIOLENCE ACT

The **DOMESTIC VIOLENCE ACT** outlaws “domestic violence” (there must be a domestic relationship between the complainant and the harasser), which includes physical abuse, sexual abuse, economic abuse and emotional, verbal and psychological abuse. It also prohibits intimidation, stalking, damage to property, entry into your residence without your consent and any other controlling or abusive behaviour towards the complainant, if such conduct harms, or may cause harm, to the safety, health or wellbeing of the complainant.

Examples of prohibited conduct include:

- (1) repeated insults, ridicule or name calling, repeated threats to cause emotional pain.
- (2) engaging in a pattern of conduct that induces the fear of harm to a complainant including repeatedly watching, or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies or happens to be;
- (3) uttering or conveying a threat, or causing a complainant to receive a threat, which induces fear.
- (4) any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant.
- (5) repeatedly following, pursuing, or accosting the complainant.

COMMON LAW: CRIMINAL

Crimen injuria is a crime under South African common law, defined to be the act of “unlawfully, intentionally and seriously impairing the dignity of another.”

COMMON LAW: CIVIL

Street harassment could fall within the ambit of the protection of personality rights at common law and in particular under the delictual action of the **Actio Iniuriarum** provided that the elements of the action were met:

- Harm (in the form of an infringement of a personality right);
- Wrongfulness; and
- Intention.

The most likely categories of infringement would be of (i) *corpus* (this is an infringement to a person’s physical and/or mental integrity) or (ii) *dignitas* (could potentially cover all aspects of legally protected personality other than *corpus* and *fama*; and (iii) *fama* (this is an infringement to a person’s good name) relates primarily to defamation type claims, however, an infringement of *fama* could potentially arise depending on the circumstances. Any potential claim for civil liability would be subject to the principle of *diminimus* (i.e. in essence the infringement should be trivial).

Essentially each circumstance would have to be considered on a case by case basis to determine whether the particular type of street harassment constitutes an infringement of a personality right. We have set out above some examples of what behaviour broadly speaking could constitute an infringement however this is not a closed list.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, repeated insults, ridicule or name calling, repeated threats to cause emotional pain could amount to harassment under the [PROTECTION FROM HARASSMENT ACT](#) or [DOMESTIC VIOLENCE ACT](#).

COMMON LAW: CRIMINAL

It is likely that our courts would view the harassment of and/or serious insults towards women, children and LGBT persons gravely and in the same manner as racial abuse, provided the conduct was objectively serious.

From a public harassment viewpoint, to stare at a woman, for instance, is scarcely injurious but to follow her and stare at her persistently may be. In conjunction with degrading and insulting comments would likely render the behaviour criminal.

COMMON LAW: CIVIL

Under the category *fama* – infringement of good name for example defamation.

Under the category *dignitas* this could include the following types of behaviour which result in a person feeling that their dignity is being infringed:

- use of insulting or belittling words,
- abusive language,
- degrading or scornful behaviour

improper sexual proposals or improper conduct (this receives most attention under criminal law but does still fall within this delictual action).

(b) Groping/unwanted physical conduct?

Yes, the repeated accosting of the complainant or any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant could amount to harassment under the [PROTECTION FROM HARASSMENT ACT](#) or [DOMESTIC VIOLENCE ACT](#).

COMMON LAW: CIVIL

Infringement of a person's *corpus* could include things such as assault, acts of a sexual (including rape) or indecent nature, someone spitting in or slapping another person's face, where a woman is kissed against her will, wrongful arrest and detention (please note that the cases of such examples are old and these cases are not common today).

(c) Public masturbation?

Yes, any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant could amount to harassment under the Protection from Harassment Act or Domestic Violence Act.

STATUTORY CRIMES

In addition, it is a criminal offence for A to compel B to watch A or C self-masturbate (whether for the sexual gratification of A or C or not) without B's consent. This is outlawed where B is under the age of 18.

(d) Public exposure?

Yes, any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant could amount to harassment under the Protection from Harassment Act or Domestic Violence Act.

STATUTORY CRIMES

In addition, if A exposes his or her genitals, anus or breasts to B without B's consent (whether for A's sexual gratification or not) A is guilty of an offence. Likewise, if A exposes the genitals, anus or breasts of C to B (whether for A's or C's sexual gratification or not) A is guilty of an offence. This is outlawed where B is under the age of 18.

It is also an offence for a person to wilfully and openly expose himself or herself in an indecent dress or manner at a door or window that is in view of a public place or accessible to the public.

COMMON LAW: CIVIL

Infringement of a person's *corpus* could include things such as assault, acts of a sexual (including rape) or indecent nature, where a woman's leg is exposed in front of other people (please note that the cases of such examples are old and these cases are not common today).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

PROTECTION FROM HARASSMENT ACT AND DOMESTIC VIOLENCE ACT

Harassment should be reported either to local police or the clerk of the Magistrate's Court, where you will be able to apply for a protection order. This is an order that is enforceable by the police that prevents the person you are complaining about from harassing you.

To get a protection order you must go to the Magistrate's Court in the area:

- (i) where you live or work;

- (ii) where the person who has sexually harassed you lives or works; **or**
- (iii) in the area where the sexual harassment happened.

List of Magistrate's Courts in South Africa [🔗](#)

CRIMINAL ACTS

Crimes must be reported to a police station. An affidavit can be completed by making a statement at any police station. Phone [10111](#) for immediate assistance from the Police.

COMMON LAW: CIVIL

In order to exercise your rights in terms of the common law you would need to visit a lawyer and find out if the conduct amounted to a delict whether you should sue the other person.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

PROTECTION FROM HARASSMENT ACT

Court: To apply for a protection order, you must go to the clerk of the Magistrate's Court in the correct area (see (ii) above). You can take a lawyer with you to apply for your protection order, but it is not required.

When you speak to the clerk of the court your rights are as follows:

- (i) The clerk must explain to you how to apply for a protection order and must help you to do so. The clerk should provide you with a form to write your complaint on. If you are not confident in writing it yourself, the clerk will help you.
- (ii) You must make sure that you get a piece of paper called an "acknowledgment of receipt" from the clerk of the court when you finish filling out the complaint form and making your application.
- (iii) All the information you give to the clerk of the court is confidential and cannot be shared with members of the public.
- (iv) The clerk must also explain that you have the right to lodge a criminal complaint against the person who has harassed you.
- (v) If you are a child, you do not need to have your parents, guardian or any older person present– you are allowed to lay the complaint yourself.

If you feel that you are in danger because of the person that is harassing you, but it is after hours and the court is closed, then you can still make an application for a protection order at your local police station. To do this you will need to go to your local police station and explain that you would like to make an application for a protection order immediately. Ask if they can contact the clerk of the court to help you to do so. You

must then explain to the court why you need to get the protection order immediately and that it cannot wait until the court opens because you feel you are in danger.

When you are applying for a protection order, you can bring supporting documents or affidavits of people who know about the harassment you are complaining of. This is helpful and will make it easier to get an order, but you do not have to bring an affidavit with you. You can just fill out the form yourself.

A supporting affidavit is a written statement in support of a claim you may make that has been certified as being true. To commission an affidavit, you need to ask the person who is going to make the statement in support of your protection order to write it down. They must then take their written statement to any police station and ask a policeman or woman to commission it.

Once you have made your application with the clerk of the court, the court will then decide whether to grant the protection order or not.

(Protection orders for domestic violence are obtained in a similar manner).

Police: You can also go to the police. But they will only be able to assist you if you want to lay a criminal charge. Otherwise, they will just instruct you to go to the Magistrate's Court and apply for a protection order. They can help you with applying for the protection order by taking all the details of the harassment from you and making a statement. You can then use this statement when applying for your order.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There is a dedicated clerk of the court and magistrate in each Magistrate's Court trained to deal with protection orders in terms of the Protection from Harassment Act.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

No.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

If a protection order is issued against the perpetrator and this order is violated then the perpetrator becomes a criminal who can be arrested. If a criminal charge is laid, the police will investigate and gather evidence which will be given to a prosecutor. The prosecutor will then decide whether to prosecute (lay charges) against the person.

PROTECTION FROM HARASSMENT ACT

The court will grant an interim protection order immediately if:

- (i) the person you are complaining about is engaging in harassment (see the definition under **1**); **and**
- (ii) you will be harmed if the protection order is not issued immediately; **and**
- (iii) telling the person you're complaining about and giving them a chance to be heard will take away from the protection you need right now.

Once the court has issued an interim order, it will arrange for the order to be served on the person you are complaining about.

When the order is served on this person, they will get a date when they can come to court and explain whether they disagree with the issuing of the order (that is, whether they think that they have not engaged in harassment). On this date, if they can't properly explain to the court that they have not been harassing you, then the court will make the temporary order final.

If the court does not decide to give you a interim protection order, then your application will be served on the person you're complaining about and a date will be set when the court will hear from both sides and decide whether to give the protection order or not.

When you make an application to a court for a protection order, the court has the power to ask the police station commander in the relevant area to investigate your complaint. The station commander will then return their findings to the court to help in the decision whether to give you the protection order or not.

The police also have the power to find out the name and address of the person who you want to complain about if you don't know it.

The court has the power to call anyone that may help it in deciding whether to give the protection order, as a witness. This witness must come to court, or they will be guilty of an offence.

The court also has the power to hold the hearing in private. This may mean that no members of the public may attend the hearing, that no information relating to the proceedings may be published or that the names of anyone involved may remain a secret. You may ask the court to hold the hearing in private.

If your application is properly served on the person you complained about and they don't show up to court on the day of the hearing, the court will automatically give you your protection order. This will only be done if you have given the court enough facts for them to believe that you have been harassed.

If the person you have complained about does come to court on the date of the hearing, then the court must look at all of the evidence it has and also allow everyone involved to give their story.

The court will then decide whether to give the final protection order or not.

How the protection order works:

- Once a protection order has been issued, the court will prohibit the person who has harassed you from harassing you anymore and from doing anything else that the court specifically puts in the order.
- The court can order that any weapons held by the person who harassed you be taken away from them. It can also order that the police come with you to collect your personal belongings from a place that you don't feel safe going to by yourself because of the harassment.
- When the court issues the protection order, they will also issue a warrant of arrest. Then if the person who has harassed you troubles you after that, they can be arrested. This warrant will last for as long as the order lasts. Usually this will be for 5 years, but the court can make it longer.

COMMON LAW: CRIMINAL

The sanctions for those convicted of *crimen injuria* generally involve the imposition of fines. Jail time is rare if non-existent. In light of South Africa's history, racial abuse has generally been viewed as criminal conduct and fines between R10 000 and R50 000 have been imposed.

COMMON LAW: CIVIL

At common law in terms of civil liability, the person, if found guilty under the *Actio Iniuriarum* could be ordered to pay an amount of compensation to the person whose personality rights have been infringed as a form of compensation.

TURKEY

LEGAL CONTACTS:

Nihan Guneli, *Guneli & Koc Law Firm*

Murat Karkin, Begüm Biçer, *YükselKarkinKüçük Attorney Partnership*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of behaviours defined as harassment in [TURKISH CRIMINAL CODE](#).

Street harassment is defined as any kind of behaviour which threatens the victim in any way in public places and there are also specific provisions for behaviours with sexual content and they are all illegal. Specifically, threat, sexual assault and sexual harassment are outlawed. There are also a number of immoral acts defined as indecent acts in the Turkish Criminal Code.

Type of behaviours are not specifically indicated in the Code. The behaviour which causes disturbance is evaluated by the prosecutor in each complaint and by the judge during the lawsuit process. Generally, using threatening, abusive or insulting words or behaviours in a public place which is likely to cause harassment or distress or violation of the physical integrity of another person by means of sexual conduct is against the Turkish Criminal Code.

Furthermore where a person persistently makes phone calls, creates noise or otherwise acts in an unlawful manner, with the aim of disturbing a person's peace and harmony, the offender will be sentenced to a penalty of imprisonment for a term of 3 months to 1 year under the Turkish Criminal Code.

As mentioned, it is important that reported behaviour is treated as a crime firstly by the prosecutor in order to provide that a criminal case is initiated and then by the judge for that the harasser is sentenced to a penalty. Therefore in certain situations of harassment, it is not always possible to legally accept a complaint and initiate a criminal case against the perpetrator. For example if a harasser swears at you or makes comments with sexual content, you can file a complaint.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, using threatening, abusive or insulting expressions is against the law. There are three different relevant provisions in Turkish Criminal Code. First of all, according to [ARTICLE 125 OF TURKISH CRIMINAL CODE](#), any act, or fact, to a person in a manner that may violate that person's honour, dignity or prestige, or any attack to someone's

honour, dignity or prestige by swearing is accepted as defamation. Furthermore if the statements have sexual purposes, then it constitutes sexual harassment and if the behaviour includes any threat, the harasser may also be prosecuted due to threat. Secondly, [ARTICLE 106 OF TURKISH CRIMINAL CODE](#) states that any person who threatens another individual by stating that he/she will attack the individual's, or his/her relative's life or physical or sexual immunity shall be subject to a penalty of imprisonment for a term of 6 months to two years. Finally, as per [ARTICLE 213](#), any person who publicly threatens life, health, physical or sexual immunity or property with the aim of causing fear, distress and panic among the public shall be sentenced to a penalty of imprisonment for a term of 2 to 4 years.

(b) Groping/unwanted physical conduct?

The behaviours which violate physical integrity are outlawed. In case that behaviour contains any physical contact, it is accepted as molestation and it requires heavier sentence than harassment. According to [TURKISH CRIMINAL CODE](#), such actions require a penalty of imprisonment for a term of minimum 2 years which increase depending on the results of the action. Under the [ARTICLE 102](#), any person who violates physical integrity of another person by means of sexual conduct, shall be sentenced to a penalty of imprisonment for a term of 2 to seven years upon complaint of the victim. The imprisonment term increases under several circumstances such as in case that the act is committed by means of inserting an organ or other object into the body of the other or the offence is committed against a person who is physically or mentally incapable of defending themselves etc. Furthermore, where the offence results in the impairment of the physical or mental health of the victim, the offender shall be sentenced to a penalty of imprisonment for a term of not less than ten years.

(c) Public masturbation?

A person who engages in sexual intercourse in public or who exposes him/herself in public is prosecuted according to [ARTICLE 225 OF THE TURKISH CRIMINAL CODE](#) which requires a penalty of imprisonment for a term of 6 months to 1 year.

(d) Public exposure?

It is also an incident act according to the [ARTICLE 225 OF THE TURKISH CRIMINAL CODE](#) which requires 6 months to 1 year penalty.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

There isn't any specific hotline or any other organization accepting such complaints. Any instances of harassment can be reported to the police (telephone no. 155) immediately in any circumstances, even if the kind of harassment is not accepted as criminal activity. However, if the harassment caused more than just a small disturbance and the person feels her/himself a victim of a crime, the victim should definitely report the incident by going to the police station and should make a complaint against his/her harasser. It is not required that victim defines the incident by giving specific crime type as defined in the Code – and explanation of the facts about the incident is sufficient. It is possible to make this complaint orally at the police station. This statement is recorded by the police and sent to the prosecutor or it is also possible to make a complaint by filing a petition which will be directly submitted to prosecutor.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

It is required that victims indicate their names and surnames, identity numbers, their home address and other related personal information when filing a report against a harasser. Considering that most of the harassment types are prosecuted upon complaint of victim, identity of victim is important in order to be able to demonstrate the crime.

There are also limited rights to anonymity after a case gone to Court. It is possible that third parties are not allowed to enter the hearing if the Judge decides this. It is also possible to request security from a Judge provided by the government for security of the victim in his/her daily life.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

Currently, there is not any specific policy accepted by the government. However a few years ago 'pink buses' (buses specified just for women) project has been discussed, since harassment cases mostly occur in crowded buses and victims are generally women. This idea has been deemed as sexist and was not supported by most people. Apart from that, there is not any specific regulation or affirmative actions concerning street harassment.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

All codes in Turkey are applied in the whole country.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

It is very important to try to collect evidence. Especially witness statements and medical reports are extremely important. In case of verbal harassment, witness statements have a particularly important role for demonstration of the crime. Therefore it is suggested to note personal information and contact details of the witnesses.

In cases where the behaviour contains any physical contact (physical force or sexual assault), the victim should immediately go to the nearest emergency service and ask for a medical report.

Beyond these issues, the victim should definitely call the police to secure her/himself even though they might not want to make a complaint. Besides, when a victim calls the police, the police records his/her call and produce statistics. Their call may save someone else.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The scope of consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself. It should be also noted that some types of the crimes are prosecuted upon complaint of the victim.

Any person who disturbs an individual's peace and harmony in a persistent manner will be sentenced to penalty of imprisonment for a term of three months to one year, upon the complaint of the victim.

If the harassment is treated as a defamation, the offender may have to pay a judicial fine and also be punished with imprisonment not exceeding two years.

Any person who threatens another individual by stating that he will attack the individual's, or his relative's life or physical or sexual [immunity] will be subjected to a penalty of imprisonment for a term of six months to two years. Where the threat relates to causing extensive loss of economic assets or related harms, there may be a penalty of imprisonment for a term of up to six months or judicial fine, upon complaint of the victim.

Any person who sexually harasses another person, will be sentenced to a penalty of imprisonment for a term of three months to two years or a judicial fine, upon complaint of the victim.

If the harassment is treated as sexual assault, the offender will be punished with imprisonment

- for a term of two years to seven years upon complaint of the victim;
- for a term of seven years to twelve years in especially serious cases (i.e. if the offender performs sexual intercourse with the victim);

- of not less than ten years if the offence results in the impairment of the physical or mental health of the victim,

During the commission of sexual assault,

- if the offender performs greater force than is necessary to suppress the resistance of the victim, the offender may be also sentenced to a penalty for intentional injury in addition,
- if the victim falls into a vegetative state or dies, the offender will be punished with aggravated imprisonment.

If the harassment is treated as exhibitionism, the offender is subject to imprisonment for a term of six months to one year.

In case that the victim of sexual harassment, sexual assault or exhibitionism is a minor (a person who is less than 18 years old), the offender will be sentenced with a greater penalty.

One of the big challenges may be that sexual harassment typically happens without the presence of a witness. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove details. A situation arises where the victim's word is against the offender's word. In such cases the principle of "*when in doubt, for the accused*" may apply, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain. Therefore the victim should be very calm and try to collect every piece of evidence. As mentioned, medical report is one of the most important pieces of evidence in sexual assault cases; the victim should immediately go to a hospital and request a medical report as soon as possible.

USA

ATLANTA, GEORGIA

LEGAL CONTACT:

Adam Reinke, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Many forms of street harassment are unlawful. While there is no general law that broadly defines street harassment, specific types of street harassment are prohibited by state law or municipal ordinance. For example, disorderly conduct, public drunkenness, stalking, public indecency, sexual battery and aggressive monetary solicitation are all prohibited by various state laws and/or municipal ordinances, as described in further detail below.

STATE LAWS

- **Disorderly conduct** is prohibited by [O.C.G.A. § 16-11-39](#). A person commits disorderly conduct if he:
 - (i) Acts in a violent or tumultuous manner toward another person and that person is placed in reasonable fear for his/her safety; or
 - (ii) Acts in a violent or tumultuous manner toward another person and that person's property is placed in danger of being damaged or destroyed; or
 - (iii) Uses without provocation opprobrious or abusive words which as a matter of common knowledge and under ordinary circumstances will naturally tend to provoke violent resentment ("fighting words"); or
 - (iv) Uses without provocation obscene and vulgar or profane language in the presence of a person who is under 14 years old.
- **Public drunkenness** is prohibited by [O.C.G.A. § 16-11-41](#). A person commits public drunkenness if he is intoxicated in any public place and behaves boisterously or indecently or uses vulgar, profane, loud, or unbecoming language.
- **Stalking** is prohibited by [O.C.G.A. § 16-5-90](#). A person commits stalking if he follows, places under surveillance, or contacts another person without that person's consent and establishes a pattern of harassing and intimidating behaviour that places that person in reasonable fear for her or her family's safety.

- **Public indecency** is prohibited by [O.C.G.A. § 16-6-8](#). A person commits public indecency if he performs any of the following acts in a public place:
 - (i) Sexual intercourse; or
 - (ii) A lewd exposure of the sexual organs; or
 - (iii) A lewd appearance in a state of partial or complete nudity; or
 - (iv) A lewd caress or indecent fondling of the body of another person.
- **Sexual battery** is prohibited by [O.C.G.A. § 16-6-22.1](#). A person commits sexual battery if he intentionally makes physical contact with a man or woman’s genital area, anus, groin, inner thighs, or buttocks or a woman’s breasts without consent.

MUNICIPAL ORDINANCES

- **Disorderly conduct** is also prohibited by [CITY OF ATLANTA CODE § 106-81](#). The definition of disorderly conduct in the city ordinance is broader than the definition in the state statute. It is a violation of the city ordinance to force oneself upon the company of another, which means *“continuing to request or solicit . . . an individual’s company from a person after that person has made a negative response.”*
- **Aggressive monetary solicitation** is prohibited by [CITY OF ATLANTA CODE § 106-85\(C\)](#). A person commits aggressive monetary solicitation when he solicits money by:
 - (i) Blocking the path of the person solicited; or
 - (ii) Not allowing the person solicited to leave the presence of the solicitor by following immediately behind or walking alongside the person solicited; or
 - (iii) Using profane or abusive language during solicitation or after refusal; or
 - (iv) Continuing to solicit after the person being solicited has refused; or
 - (v) Making any kind of communication or gesture that could be perceived as a threat; or
 - (vi) Touching the person solicited.

If the offender is prosecuted and convicted, the penalties are as follows:

STATE LAWS

- **Disorderly conduct** is a misdemeanor punishable by a fine of up to \$1000 and up to 12 months in jail
- **Public drunkenness** is a misdemeanor punishable by a fine of up to \$1000 and up to 12 months in jail
- **Stalking** is a misdemeanor punishable by a fine of up to \$1000 and up to 12 months in jail. Upon the second conviction and all subsequent convictions, stalking is a felony punishable by 1 to 10 years imprisonment.
- **Public indecency** is a misdemeanor punishable by a fine of up to \$1000 and up to

12 months in jail. Upon the third conviction and all subsequent convictions, public indecency is a felony punishable by 1-5 years imprisonment.

- **Sexual battery** is a misdemeanor of a high and aggravated nature punishable by a fine of up to \$5000 and up to 12 months in jail. Upon the second conviction and all subsequent convictions, sexual battery is a felony punishable by 1–5 years imprisonment.

MUNICIPAL ORDINANCES

- **Disorderly conduct** is a violation of a city ordinance that is punishable by a fine of up to \$1000 and up to 6 months in jail.
- **Aggressive monetary solicitation** is a violation of a city ordinance that is punishable by community service, a fine of up to \$1000 and up to 180 days in jail. Upon the second conviction, there is a mandatory jail term of at least 30 days. Upon the third conviction and all subsequent convictions, there is a mandatory jail term of at least 90 days.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

There is no law that broadly prohibits all types of verbal harassment, but certain types of verbal harassment are crimes:

- Verbally harassing an individual with words that naturally tend to provoke violent resentment (“fighting words”) is disorderly conduct prohibited by [O.C.G.A. § 16-11-39\(A\)\(3\)](#).
- Verbally harassing an individual under 14 years old by using obscene and vulgar language is disorderly conduct prohibited by [O.C.G.A. § 16-11-39\(A\)\(4\)](#).
- Verbally harassing an individual while intoxicated in public is public drunkenness prohibited by [O.C.G.A. § 16-11-41\(A\)](#).
- A pattern of verbal harassment that causes a person to be in reasonable fear for her safety is stalking prohibited by [O.C.G.A. § 16-5-90\(A\)\(1\)](#).
- Verbal harassment by continuing to request or solicit a person’s company after that person has made a negative response is a violation of the city ordinance against disorderly conduct, [CITY OF ATLANTA CODE § 106-85\(C\)](#).

(b) Groping/unwanted physical conduct?

Yes. Groping or unwanted physical conduct is sexual battery if the touching is to a man or woman’s genital area, anus, groin, inner thighs or buttocks or a woman’s breasts, which is prohibited by [O.C.G.A. § 16-6-22.1\(B\)](#).

(c) Public masturbation?

Yes. Public masturbation falls within the definition of public indecency and is prohibited by [O.C.G.A. § 16-6-8\(A\)](#).

(d) Public exposure?

Yes. Public exposure falls within the definition of public indecency and is prohibited by O.C.G.A. § 16-6-8(A).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Harassment should be reported to the police by calling 404-614-6544 or, in the case of an emergency, 911. A person who is harassed while riding MARTA can report the incident to the bus or train operator or the **MARTA Police Department**.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The police officer who responds to the scene will likely file a report. If the offense is a violation of a city ordinance or a misdemeanor (as most of these harassment crimes are) and if it was not committed in the presence of the officer, the officer will probably not arrest the offender. The report will be forwarded to an investigator, who will investigate and determine whether there is probable cause to believe the offender committed a crime. If there is, the investigator can obtain an arrest warrant that will allow the police to arrest the offender.

After the offender is arrested, if the prosecutor believes there is enough evidence to sustain a conviction, the offender will be prosecuted. Many cases are resolved by plea bargain before trial, but it is possible that there would be a trial. If there is a trial and the victim's testimony is essential to prove an element of the offense, the victim would likely be called to testify.

There is no general right to anonymity for victims of harassment.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

No, but the **MARTA Code of Conduct** prohibits people who are using public transportation from engaging in *"disorderly or inappropriate conduct that is inconsistent with the orderly and comfortable use of buses, rail cars, or transit facilities."* That language is broad enough to encompass many forms of street harassment. Violators can be prohibited from using MARTA.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

N/A.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Nothing to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described above in section 1, if the offense is classified as a violation of a city ordinance, it is punishable by a fine and up to 6 months in jail.

If the offense is classified as a misdemeanor, it will appear as a crime on the offender's criminal record. Misdemeanors are punishable by a fine and up to 12 months in jail.

If the offense is classified as a felony, it will appear as a crime on the offender's criminal record. Felonies are punishable by one year or more in prison.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word against the alleged offender's word. In such cases the principle of "*innocent until proven guilty*" applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

ATHENS, GEORGIA

LEGAL CONTACT:

Adam Reinke, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Many forms of street harassment are unlawful. While there is no general law that broadly defines street harassment, specific types of street harassment are prohibited by state law or municipal ordinance. For example, disorderly conduct, public drunkenness, stalking, public indecency, sexual battery and aggressive monetary solicitation are all prohibited by various state laws and/or municipal ordinances, as described in further detail below.

STATE LAWS

- **Disorderly conduct** is prohibited by [O.C.G.A. § 16-11-39](#). A person commits disorderly conduct if he:
 - (i) Acts in a violent or tumultuous manner toward another person and that person is placed in reasonable fear for his/her safety; or
 - (ii) Acts in a violent or tumultuous manner toward another person and that person's property is placed in danger of being damaged or destroyed; or
 - (iii) Uses without provocation opprobrious or abusive words which as a matter of common knowledge and under ordinary circumstances will naturally tend to provoke violent resentment ("fighting words"); or
 - (iv) Uses without provocation obscene and vulgar or profane language in the presence of a person who is under 14 years old.
- **Public drunkenness** is prohibited by [O.C.G.A. § 16-11-41](#). A person commits public drunkenness if he is intoxicated in any public place and behaves boisterously or indecently or uses vulgar, profane, loud, or unbecoming language.
- **Stalking** is prohibited by [O.C.G.A. § 16-5-90](#). A person commits stalking if he follows, places under surveillance, or contacts another person without that person's consent and establishes a pattern of harassing and intimidating behaviour that places that person in reasonable fear for her or her family's safety.
- **Public indecency** is prohibited by [O.C.G.A. § 16-6-8](#). A person commits public indecency if he performs any of the following acts in a public place:
 - (i) Sexual intercourse; or
 - (ii) A lewd exposure of the sexual organs; or
 - (iii) A lewd appearance in a state of partial or complete nudity; or
 - (iv) A lewd caress or indecent fondling of the body of another person.

- **Sexual battery** is prohibited by **O.C.G.A. § 16-6-22.1**. A person commits sexual battery if he intentionally makes physical contact with a man or woman’s genital area, anus, groin, inner thighs, or buttocks or a woman’s breasts without consent.

MUNICIPAL ORDINANCES

- **Disorderly conduct** is also prohibited by **ATHENS-CLARKE COUNTY CODE OF ORDINANCES § 3-5-1**. The definition of disorderly conduct in the city ordinance is broader than the definition in the state statute. It is a violation of the city ordinance to *“endanger the lawful pursuits of another by acts of violence, threats of violence or abusive conduct.”*
- **Begging or soliciting by accosting or forcing oneself upon the company of another** is prohibited by **ATHENS-CLARKE COUNTY CODE OF ORDINANCES § 3-15-1**. *“Accosting” means “approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession.” “Forcing oneself upon the company of another” means “continuing to request, beg or solicit in close proximity to the individual addressed after the person to whom the request is directed made a negative response, blocking the passage of the individual addressed, or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.”*

If the offender is prosecuted and convicted, the penalties are as follows:

STATE LAWS

- **Disorderly conduct** is a misdemeanor punishable by a fine of up to \$1000 and up to 12 months in jail
- **Public drunkenness** is a misdemeanor punishable by a fine of up to \$1000 and up to 12 months in jail
- **Stalking** is a misdemeanor punishable by a fine of up to \$1000 and up to 12 months in jail. Upon the second conviction and all subsequent convictions, stalking is a felony punishable by 1 to 10 years imprisonment.
- **Public indecency** is a misdemeanor punishable by a fine of up to \$1000 and up to 12 months in jail. Upon the third conviction and all subsequent convictions, public indecency is a felony punishable by 1-5 years imprisonment.
- **Sexual battery** is a misdemeanor of a high and aggravated nature punishable by a fine of up to \$5000 and up to 12 months in jail. Upon the second conviction and all subsequent convictions, sexual battery is a felony punishable by 1–5 years imprisonment.

MUNICIPAL ORDINANCES

- **Disorderly conduct** is a violation of a city ordinance that is punishable by a fine of up to \$1000 and up to 6 months in jail.
- **Begging or soliciting by accosting or forcing oneself upon the company of another** is a violation of a city ordinance that is punishable by a fine of up to \$1000 and up to 6 months in jail.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

There is no law that broadly prohibits all types of verbal harassment, but certain types of verbal harassment are crimes:

- Verbally harassing an individual with words that naturally tend to provoke violent resentment (“fighting words”) is disorderly conduct prohibited by [O.C.G.A. § 16-11-39\(A\)\(3\)](#).
- Verbally harassing an individual under 14 years old by using obscene and vulgar language is disorderly conduct prohibited by [O.C.G.A. § 16-11-39\(A\)\(4\)](#).
- Verbally harassing an individual while intoxicated in public is public drunkenness prohibited by [O.C.G.A. § 16-11-41\(A\)](#).
- A pattern of verbal harassment that causes a person to be in reasonable fear for her safety is stalking prohibited by [O.C.G.A. § 16-5-90\(A\)\(1\)](#).

(b) Groping/unwanted physical conduct?

Yes. Groping or unwanted physical conduct is sexual battery if the touching is to a man or woman’s genital area, anus, groin, inner thighs or buttocks or a woman’s breasts, which is prohibited by [O.C.G.A. § 16-6-22.1\(B\)](#).

(c) Public masturbation?

Yes. Public masturbation falls within the definition of public indecency and is prohibited by [O.C.G.A. § 16-6-8\(A\)](#).

(d) Public exposure?

Yes. Public exposure falls within the definition of public indecency and is prohibited by [O.C.G.A. § 16-6-8\(A\)](#).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Harassment should be reported to the police by calling [706-613-3330](#) or, in the case of an emergency, [911](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The police officer who responds to the scene will likely file a report. If the offense is a violation of a city ordinance or a misdemeanor (as most of these harassment crimes are) and if it was not committed in the presence of the officer, the officer will probably not arrest the offender. The report will be forwarded to an investigator, who will investigate

and determine whether there is probable cause to believe the offender committed a crime. If there is, the investigator can obtain an arrest warrant that will allow the police to arrest the offender.

After the offender is arrested, if the prosecutor believes there is enough evidence to sustain a conviction, the offender will be prosecuted. Many cases are resolved by plea bargain before trial, but it is possible that there would be a trial. If there is a trial and the victim's testimony is essential to prove an element of the offense, the victim would likely be called to testify.

There is no general right to anonymity for victims of harassment.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

No.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

N/A.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Nothing to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described above in section 1, if the offense is classified as a violation of a city ordinance, it is punishable by a fine and up to 6 months in jail.

If the offense is classified as a misdemeanor, it will appear as a crime on the offender's criminal record. Misdemeanors are punishable by a fine and up to 12 months in jail.

If the offense is classified as a felony, it will appear as a crime on the offender's criminal record. Felonies are punishable by one year or more in prison.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence,

the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word against the alleged offender's word. In such cases the principle of "*innocent until proven guilty*" applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

BALTIMORE, MARYLAND

LEGAL CONTACT:

Jennifer Dinsmore, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of specific laws which make street harassment illegal.

Using threatening, abusive or insulting words or behaviour in a public place which is likely to cause harassment, alarm or distress is against the law. Specifically, [SECTION 3-803 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND](#) says:

(A). PROHIBITED A person may not follow another in or about a public place or maliciously engage in a course of conduct that alarms or seriously annoys the other:

- (1) with the intent to harass, alarm, or annoy the other;
- (2) after receiving a reasonable warning or request to stop by or on behalf of the other; and
- (3) without a legal purpose.

(B). EXCEPTION This section does not apply to a peaceable activity intended to express a political view or provide information to others.

For example this would include behaviour like swearing at someone in the street, or making unwanted or inappropriate sexual comments if it continued after a request to stop.

A person who violates [SECTION 3-803](#) is guilty of a misdemeanor and on conviction is subject to: (1) for a first offense, imprisonment not exceeding 90 days or a fine not exceeding \$500 or both; and (2) for a second or subsequent offense, imprisonment not exceeding 180 days or a fine not exceeding \$1,000 or both.

Certain disturbances of a person's public peace are also prohibited in Maryland. Section [10-201](#) of the Criminal Law Article of the Annotated Code of Maryland says:

(C). PROHIBITED

- (1) A person may not wilfully and without lawful purpose obstruct or hinder the free passage of another in a public place or on a public conveyance.
- (2) A person may not wilfully act in a disorderly manner that disturbs the public peace.
- ...
- (5) A person from any location may not, by making an unreasonably loud noise, wilfully disturb the peace of another:
 - (i) on the other's land or premises;

- (i) in a public place; or
- (i) on a public conveyance.

A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

There is also a specific prohibition in Maryland relating to misuse of a laser pointer.

[SECTION 3-806 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND](#) provides that:

(C). PROHIBITED A person may not knowingly use a laser pointer to illuminate another in a public place in a manner that harasses or endangers the other.

A person who violates [SECTION 3-806](#) is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. Verbal harassment that continues after a request to stop is against the law under [SECTION 3-803 AND POTENTIALLY SECTION 10-201 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND](#) (see section 1 above).

(b) Groping/unwanted physical conduct?

[SECTION 3-308 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND](#) prohibits a person from engaging in sexual contact with another without the consent of the other. “*Sexual contact*” defined as intentional touching of the victim’s or actor’s genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party. “*Sexual contact*” does not include: (i) a common expression of familial or friendly affection; or (ii) an act for an accepted medical purpose.

A person who violates [SECTION 3-308](#) is guilty of the misdemeanor of sexual offense in the fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both; provided, that a person who has been convicted of a sexual offense on a prior occasion not arising from the same incident is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 1,000 or both.

(c) Public masturbation?

Yes, if there is exposure. Public masturbation would generally be prohibited either as harassment under [SECTION 3-803](#), disturbing the public peace under [SECTION 10-201](#) or indecent exposure under [SECTION 11-107 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND](#) (see below).

[SECTION 11-107 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND](#) prohibits indecent exposure. A person convicted of indecent exposure is guilty of

a misdemeanor and is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 1,000 or both.

(d) Public exposure?

Yes. This is against the law, either as harassment under [SECTION 3-803](#), disturbing the public peace under [SECTION 10-201](#) or indecent exposure under [SECTION 11-107 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND](#) (see above).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Any instances of harassment can be reported to the police. In case of emergency (or to report crimes in progress) call [911](#), otherwise go to or contact your nearest police station, or dial [311](#) (non-emergency police line). If calling to make a report from outside of the City of Baltimore, you may contact the **Baltimore City Police Department** at [410-396-2525](#).

By reporting crimes that occur in your community you can help the police and the judicial system combat crime. It is critical that the police have as much information as possible about the crimes that are committed in the City of Baltimore. By reporting the details of crimes that you witness, you help generate vital information that can be utilized to solve the crime you reported, solve crimes that may be related, conduct investigations, and build cases against criminals:

Report a Crime [🔗](#)

You can also file a police report online through the **Baltimore Police Department Citizens Online Police Reporting System**. This online system allows you to submit your report immediately and print a copy of the police report. To make your report online, every one of the following statements must be true:

- (1) This is not an emergency.
- (2) The incident occurred within Baltimore City limits.
- (3) There are no known suspects.
- (4) The incident did not occur on a State freeway.

File a Police Report Online [🔗](#)

Metro Crime Stoppers (MCS) also gives Baltimore residents the ability to anonymously report crime tips to the police. Knowing that anonymity eliminates intimidation, citizens can call [410-276-8888](#) to report crime and potentially earn a monetary reward. MCS is a volunteer organization actively supporting law enforcement agencies in solving crime in the City of Baltimore. If you wish to anonymously report a crime tip, call Metro Crime Stoppers at [410-276-8888](#).

If you believe that you are the victim of sexual harassment, call the **Maryland Commission on Human Relations** at (800) 637-6247 to speak with an **Equal Opportunity Officer**. The EOO can advise you of your options.

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

It is important for you to report harassment or assault to police. An advocate or another support person can go with you to file a report. For investigative purposes, the sooner you report the harassment or assault the better. The police will ask you questions, some of which may be difficult to answer, but it is important that you answer them fully and honestly. The police will need to take a statement from you as a basis for the complaint. The police will log the report of a crime and should provide you with a Permanent Report Number for further reference. This is the number used within the Police Department to track your report. You must have a Permanent Report Number to follow up on the incident you reported. There is no general right to anonymity and only limited rights to anonymity after a case has gone to Court. Filing a false police report is a crime.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific statewide policies regarding street harassment, but there are many local and departmental initiatives in different areas.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, they are broadly the same throughout Maryland. Maryland does have some unique laws that vary from other states (such as Maryland's law regarding the use of laser pointers described in section 1 above).

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Becoming a victim of crime is a traumatic event in your life. Whether you are a victim of a violent crime, a family member of a victim, or a victim of some other criminal or juvenile offense, you have experienced a crisis. In addition to the pain inflicted upon you by the criminal, you may experience further confusion, frustration and heartache in dealing with the criminal justice system. The **Maryland Crime Victims' Resource Center, Inc. (MCVRC)** can help by providing you with information, assistance, and

support throughout your case proceedings. They can help during all phases of the criminal and juvenile justice systems. They can provide you with:

- Assistance with using all victims’ rights that apply to you, including information on Victim Notification, VINE, and Victim Impact Statements
- A court companion during trial
- Assistance with Financial Issues, including Restitution and Criminal Injuries Compensation
- Legal assistance for victims
- Peer support services, therapeutic counselling and referrals for other related programs and services
- Education, resources and training related to victims’ rights laws

Maryland Crime Victims’ Resource Center [Victim Services](#) 

DIRECTOR OF VICTIM SERVICES

The [STATE CONSTITUTIONAL AMENDMENT FOR CRIME VICTIMS’ RIGHTS](#) and implementing laws entitle crime victims to various rights and services including the right to participate in the criminal justice process. In Maryland, the criminal appeals process requires that crime victims be informed of events related to their cases. The **Director of Victim Services** notifies crime victims and victims’ family members of court events (appellate arguments, dispositions) related to their case or conviction on appeal. The Director coordinates this information with victim assistance offices in the State’s Attorneys’ Offices and Divisions of Correction and Parole and Probation. The Director is the Maryland Attorney General’s representative on the State Board of Victim Services. The Director also answers inquiries from victims and other citizens about victim-related issues, laws, and the criminal justice process.

Barbara Bond, Director of Victim Services: [\(410\) 576-6405](#) or [\(888\) 743-0023](#)
Attorney General’s main switchboard (toll-free)

OTHER SOURCES OF VICTIM SERVICES

- On January 27, 2006, Governor Robert Ehrlich signed [EXECUTIVE ORDER 01.01.2006.01](#), transferring the Family Violence Council from the Attorney General’s Office to the Governor’s Council on Family Violence Prevention within the Governor’s Office of Crime Control and Prevention.
- The State’s Attorney’s office for each county in Maryland (and Baltimore City) has a victim/witness assistance coordinator who can answer your questions and help you through the court process. The coordinator can also help you if you need information about your case, assistance in applying for criminal injury compensation or referrals to community victim service programs. Locate the State’s Attorney for your jurisdiction at the **Maryland State’s Attorneys’ Association** website [🔗](#), [410-203-9881](#)

- The “**Victim Services in Maryland**” web page of the Maryland Department of Public Safety and Correctional Services lists the Department’s services, which includes the provision of information regarding the incarceration status of offenders, the whereabouts of released offenders, help in navigating the criminal justice process, and financial compensation to the victims of crime. The site also lists the services of many other public and private providers of victim assistance.

Statewide Victim Services Directory on the Maryland Community Services Locator [↗](#)

- The **Criminal Injuries Compensation Board** provides financial assistance for innocent victims of crime. The Board may compensate victims who suffer physical injury for their medical expenses and loss of earnings. In cases of homicide, the Board may assist with funeral expenses and loss of support on the part of the victim’s dependents. [410-585-3010](#) or [1-888-679-9347](#) toll-free.
- The **Maryland Crime Victims Resource Center, Inc.** offers advice and referral services, and a **Crime Victim Legal Advocacy Program**. [1-877-VICTIM-1 \(1-877-842-8461\)](#)
- **The State Board of Victim Services** publishes several victims’ rights brochures, including “**Crime Victims and Witnesses: Your Rights and Services.**” [Maryland State Board of Victim Services, Governor’s Office of Crime Control and Prevention, 300 East Joppa Road, Suite 1100, Baltimore, MD 21286; Email: \[info@goccp-state-md.org\]\(mailto:info@goccp-state-md.org\); 410-821-2828; toll-free 1-877-687-9004.](#)
- The State Victim Services Coordinator and State Victims’ Rights Compliance Coordinator work under the auspices of the Governor’s Office of Crime Control and Prevention.

Maryland Attorney General: Victim Services [↗](#)

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself, and the number of similar offenses such person has committed.

Most of the street harassment offenses described above are classified as a ‘misdemeanors,’ and are generally punishable by a jail sentence of up to 90 days and a fine up to \$500, or both. Such punishments may be increased for repeat offenses or sexual offenses, as noted above.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

In general, the criminal justice process in Maryland involves the following stages:

- Maryland state law enforcement officials or local law enforcement investigate the crime
- A Maryland judge may issue a search warrant that allows investigators to search for evidence at a specific location
- Law enforcement officials will interrogate witnesses and potential suspects to gain more information
- If the officers have probable cause to believe a crime has been committed, they will arrest the person suspected of committing the crime
- Law enforcement officials will decide to file criminal charges against the person suspected of committing the crime
- The charges will be read to the person in court during an arraignment, where the person accused of the crime is asked to plead guilty or not guilty
- The person accused of the crime (also known as the defendant) may be released from custody or may be kept in jail while awaiting trial
- Before trial, the defendant's Maryland criminal defense attorney may attempt to negotiate a plea bargain, or agreement for the defendant to plead guilty to lesser charges
- If a plea agreement cannot be reached, the defendant's case will be resolved in a trial, where evidence is presented and either a judge or jury decides whether the defendant is guilty of the crime
- After the judge or jury considers all of the evidence, a verdict is reached
- If the defendant is found guilty, he or she may choose to appeal the decision and ask a higher Maryland court to overturn it because of mistakes made during the criminal justice process
- If the defendant is found guilty, the punishment may vary depending on the severity of the crime, the defendant's intentions when he or she committed the crime, and past criminal record

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word is against the alleged offender's word. In such cases the principle of *"innocent until proven guilty"* applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

BERKELEY, CALIFORNIA

LEGAL CONTACT:

Amy Walters, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

The best protection from street harassment in Berkeley likely comes from the [CALIFORNIA CIVIL CODE](#). Although “*street harassment*” and verbal abuse are not specifically named, [CIVIL CODE 527.6](#) provides protection from a variety of actions. Specifically, under [CALIFORNIA CIVIL CODE 527.6\(B\)\(3\)](#), harassment is defined as:

“unlawful violence, a credible threat of violence, or a knowing and wilful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.”

Under this definition, abuse, threatening to abuse a victim, sexually assaulting, and stalking are prohibited. Because the definition is so broad, generally any behaviour that would make a victim feel scared, seriously annoyed or harassed is prohibited as long as it was such to make a reasonable person suffer “*substantial*” distress.

The [CALIFORNIA PENAL CODE](#), though it similarly does not explicitly forbid “*street harassment*,” also makes certain forms of street harassment illegal.

Under [PENAL CODE 646.9](#), a person who

“wilfully, maliciously, and repeatedly follows or wilfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family”

is guilty of the crime of [stalking](#).

Under this provision, verbal harassment may be punishable, but only if comments are malicious, repetitive, and threaten the victim’s safety.

Berkeley city ordinances also prohibit street harassment under certain circumstances: when street harassment occurs from use of a property or structure, or when a cyclist is harassed.

Under the city’s nuisance ordinance, it is illegal to use a property or structure “in such a way as to result in or facilitate...harassment of passers-by...” [23B.64.020 \(A\)](#).

CHAPTER 14.26 prohibits harassment of bicyclists. Under 14.26.030, a person is prohibited from, among other things, *“threatening to physically assault or injure a Bicyclist because of, in whole or in part, the Bicyclist’s status as a Bicyclist.”*

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes – to some extent. Under the CIVIL CODE, verbal harassment is outlawed when it the harasser does so wilfully or knowingly and it would cause a reasonable person to suffer *“substantial”* emotional distress. Under the PENAL CODE, verbal harassment may be prohibited where there is a *“credible threat”* to the safety of the victim or his or her family. Verbal harassment is also prohibited if said to a cyclist based on his status as a cyclist.

(b) Groping/unwanted physical conduct?

Yes. It is against the law to touch an intimate part of another person, either directly or through clothing, if the touching is unwanted and for sexual purposes.

Under CALIFORNIA PENAL CODE SECTION 243.4(E):

“(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment... (2) As used in this subdivision, ‘touches’ means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.”

(c) Public masturbation?

This is likely against the law as violating BERKELEY MUNICIPAL CODE 13.32.01, which prohibits nudity in any public place.

It shall be either a misdemeanor or an infraction, in the discretion of the prosecutor, for any person to appear nude in any place open to the public or any place visible from a place open to the public. *“Nude”* within the meaning of this section means the absence of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person or any portion of the breast at or below the areola thereof of any female person. (ORD. 6446-NS § 1, 1998: ORD. 6199-NS § 1, 1993)

CALIFORNIA STATE LAW also prohibits public masturbation:

Under **CALIFORNIA PENAL CODE SECTION 647(A)**:

“[E]very person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

- (a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.”

(d) Public exposure?

This also falls under **BERKELEY MUNICIPAL CODE 13.32.01**, which prohibits nudity in any public place (see above).

Public exposure is also prohibited by state law, which makes it illegal for a person to expose his or her genitals in public, or in any place where there are other people who may be annoyed or offended by the exposure.

Under **CALIFORNIA PENAL CODE SECTION 314**:

“Every person who wilfully and lewdly, either: **1.** Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or, **2.** Procures, counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.”

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

If you are in immediate danger, call **911**. For non-emergency cases of harassment, call the **Berkeley Police Department’s** non-emergency number at **(510) 981-5900**.

If you are not in immediate danger, but believe you are in a threatening or abusive environment, you can call **Tri Valley Haven’s 24 hour help line** at **(800) 884-8119**.


If you are a victim of domestic violence, you can call the **National Domestic Violence Hotline** at **1-800-799-7233**. If you are a victim of sexual violence, you can call the **National Sexual Assault Hotline** at **1-800-656-4673**.


4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

It depends.

Under the **CIVIL CODE HARASSMENT PROVISION**, a victim can ask for a civil harassment restraining order, as long as the harasser is not the victim’s spouse, anyone the victim

dated, or a close relative of a victim. To ask for a restraining order, the person requesting needs to file court forms with a judge. Details steps for requesting a restraining order, as well as resources that can help a person file, can be found here: [Ask for a Restraining Order](#) .

If a person has been seriously harassed or abused, the accused may be liable under criminal provisions. In this situation, a victim should call [911](#). They will be asked to give details about what happened. A person will also need to make a report with a police. More details about the criminal process can be found here: [Criminal Court Process](#) .


5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

Under [13.20.060](#), the city of Berkeley aims to *“pursue all feasible measures to prevent and redress sexual and domestic violence against women.”* Under this section, [PART C](#) provides that

“It shall be the policy of the City that all necessary measures be taken to protect women from sexual harassment in their places of employment, school, public transportation, and any other places where they might be subject to harassment.”

With this policy in mind, *“it is the goal of the City to fund public information and education programs to change traditional attitudes concerning the roles and status of women and men.”*

UC Berkeley has an **Office for Prevention of Harassment and Discrimination** to protect its faculty, staff, and students from discrimination and harassment. In cases of sexual harassment, for example, members of the university community can contact the **Title IX Officer**, a human resources coordinator, or to any employee responsible for responding to reports of sexual harassment. Once a report is made, an individual has a number of options to resolve the situation, including interim protections, remedies, and disciplinary actions against the accused. If warranted, the university begins a formal investigation procedure. Further details and resources are available here: [Sexual Harassment Reporting Procedures](#) .

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No – because most harassment provisions come from state law, they are the same throughout California.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Nothing to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

Various types of restraining orders may be put in place against the harasser. If serious harassment is reported to the police, the police can ask for an emergency protective order that starts immediately and lasts for a week. Temporary restraining orders last about 20 to 25 days until there is a hearing date. Criminal charges can result in permanent restraining orders that last up to 3 years. Restraining orders can prevent a person from going certain places or doing certain things. If he or she violates the restraining order, he or she may have to go to jail, pay a fine, or both.

If the harassment was serious, the aggressor may be arrested. If the person is not arrested at the time of the incident, the case can be assigned to a detective who will gather more information. The District Attorney will then review the report and decide whether to file charges.

If someone violates Berkeley's cyclist harassment provision, an aggrieved cyclist may bring a civil lawsuit. A violator may be liable for compensatory damages or a \$1000 fine and attorney's fees. It is not a criminal offense³².

More generally, the consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described in section 2 above, verbal harassment may, under certain circumstances, be civilly punishable by the filing of a temporary restraining order, or criminally punishable by a fine of up to \$1,000, and/or imprisonment in a county jail for up to 1 year. Groping is punishable by a fine of up to \$2,000 and/or by imprisonment in a county jail for up to 6 months. Public masturbation and public exposure are punishable by a fine of up to \$1,000 and/or by imprisonment in a county jail for up to 6 months.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it

³² See Berkeley Municipal Code, 14.26.040.

is the victim's word is against the alleged offender's word. In such cases the principle of *"innocent until proven guilty"* applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

CALIFORNIA

LEGAL CONTACT:

Christine Daya, Amy Walters, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

The best protection from street harassment in California likely comes from the [CALIFORNIA CIVIL CODE](#). Although “street harassment” and verbal abuse are not specifically named, [CIVIL CODE 527.6](#) provides protection from a variety of actions. Specifically, under [CALIFORNIA CIVIL CODE 527.6\(B\)\(3\)](#), harassment is defined as:

“unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.”

Because the definition is so broad, generally any behavior that would make a victim feel scared, seriously annoyed or harassed is prohibited as long as it was such to make a reasonable person suffer “*substantial*” distress.

The [CALIFORNIA PENAL CODE](#), though it similarly does not explicitly forbid “street harassment,” also makes certain forms of street harassment illegal. Under [PENAL CODE 646.9](#), a person who

“willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family”

is guilty of the crime of [stalking](#).

Under this provision, verbal harassment may be punishable, but only if comments are malicious, and threaten the victim’s safety.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes – to some extent. Under the [CIVIL CODE](#), verbal harassment is outlawed when it the harasser does so wilfully or knowingly and it would cause a reasonable person to suffer “*substantial*” emotional distress. A victim of this type of verbal harassment may file a temporary restraining order in certain circumstances (see section 4).

Under the [PENAL CODE](#), verbal harassment may be prohibited where there is a “credible threat” to the safety of the victim or his or her family.

It is unlikely, however, that unwanted sexual comments would fall within this category of prohibited behavior unless there is also a threat to safety.

This type of verbal harassment is punishable by a fine of up to \$1,000, and/or imprisonment in a county jail for up to 1 year.

(b) Gropping/unwanted physical conduct?

Yes. It is against the law to touch an intimate part of another person, either directly or through clothing, if the touching is unwanted and for sexual purposes.

Under [CALIFORNIA PENAL CODE SECTION 243.4\(E\)](#):

“(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment... (2) As used in this subdivision, ‘touches’ means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.”

Sexual battery is punishable by a fine of up to \$2,000, and/or by imprisonment in a county jail for up to 6 months.

(c) Public masturbation?

Yes. California state law prohibits public masturbation:

Under [CALIFORNIA PENAL CODE SECTION 647\(A\)](#):

“[E]very person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

- (a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.”

(d) Public exposure?

Yes. It is against the law for a person to expose his/her genitals in public, or in any place where there are other people who may be annoyed or offended by exposure.

Under [CALIFORNIA PENAL CODE SECTION 314](#):

“Every person who wilfully and lewdly, either: 1. Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or, 2. Procures,

counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.”

Public exposure is punishable by a fine of up to \$1,000 and/or by imprisonment in a county jail for up to 6 months.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

- (i) **Palo Alto:** If you are in immediate danger, dial 9-1-1. For non-emergency cases of harassment, call the **Palo Alto Police Department’s** non-emergency number at (650) 329-2413. Anonymous tips can be reported to (650) 617-3120.
- (ii) **San Francisco:** The best way to report an emergency case of street harassment is to dial 9-1-1.

The best way to report a non-emergency case of street harassment is to call the **SFPD Non-Emergency Information Hotline**, at (415) 553-0123.


- (iii) **Los Angeles:** The best way to report an emergency case of street harassment is to dial 9-1-1.

The best way to report a non-emergency case of street harassment is to call the **LAPD Non-Emergency Information Hotline**, at 1-877-ASK-LAPD (275-5273).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

STATE OF CALIFORNIA

It depends. Under [CALIFORNIA CIVIL CODE 527.6\(B\)\(3\)](#), a victim can ask for a civil harassment restraining order, as long as the harasser is not the victim’s spouse, anyone the victim dated, or a close relative of a victim. To ask for a restraining order, the person requesting needs to file court forms with a judge. Details steps for requesting a restraining order, as well as resources that can help a person file, can be found here: [Ask for a Restraining Order](#) .

- (i) **San Francisco:** If a person being sexually harassed wishes to stay anonymous, that person should call one of the numbers below, or send a text message to [TIP411 \(847411\)](#), and begin the message with the letters [SFPD](#).

STATION	ANONYMOUS TIP LINE
BAYVIEW STATION	822-8147
INGLESIDE STATION	587-8984
NORTHERN STATION	885-5187
RICHMOND STATION	668-7387
TARAVAL STATION	242-9753
CENTRAL STATION	392-2623
MISSION STATION	552-4558
PARK STATION	731-2865
SOUTHERN STATION	552-4901
TENDERLOIN STATION	929-9446

Anonymous tips may also be submitted online at [San Francisco Police Department Anonymous Tip Form](#).

- (ii) **Los Angeles:** If the person being sexually harassed wishes to stay anonymous, that person should call [1-800-222-TIPS \(8477\)](#), or send a text message to [CRIMES \(274637\)](#), and begin the message with the letters [LAPD](#).

Anonymous tips may also be submitted online at [Los Angeles Regional Crime Stoppers](#).


5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

Various **Universities** have adopted policies and procedures that would be applicable on their campuses, including the following Universities in the following locations:

(i) PALO ALTO

[Stanford University](#) has a sexual harassment policy to protect members of the university community. Under this policy, verbal conduct that *“has the purpose or effect of unreasonably interfering with an individual’s academic or work performance or creating an intimidating, hostile or offensive academic, work or student living environment”* is prohibited. Incidents of sexual harassment can be reported to **Stanford’s Sexual Harassment**


Policy Office at (650) 724-2120. A list of resources for Stanford community members can be found at [Sexual Harassment Policy Office Resources](#) .

(ii) **SAN FRANCISCO:**


[University of California, San Francisco \(UCSF\)](#) has a sexual harassment policy to protect members of the university community. Under this policy, verbal conduct that is *“of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person’s employment or education, unreasonably interferes with a person’s work or educational performance, or creates an intimidating, hostile or offensive working or learning environment”* is prohibited.

Examples include, but are not limited to:

- » lingering or intimate touches,
- » sexual jokes and innuendoes,
- » flirtations, such as repeated requests for dates,
- » sexual advances or propositions,
- » graphic comments about a person’s physique, and
- » sexually suggestive objects or pictures displayed in areas of common viewing.

Incidents of sexual harassment can be reported to **UCSF’s Office of Sexual Harassment** at (415) 476-5186, or online at [Sexual Harassment Prevention and Resolution](#) .

(iii) **LOS ANGELES:**

[University of California, Los Angeles \(UCLA\)](#) has a sexual harassment policy to protect members of the university community. Under this policy, verbal conduct that is *“of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person’s employment or education, unreasonably interferes with a person’s work or educational performance, or creates an intimidating, hostile or offensive working or learning environment”* is prohibited. Incidents of sexual harassment can be reported to **UCLA’s Sexual Harassment and Title IX Policy Officer** at (310) 206-3417. A list of other resources can be found at [Sexual Harassment Prevention Office](#) .

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No – because most harassment provisions come from state law, they are the same throughout California.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Nothing to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word is against the alleged offender's word. In such cases the principle of "*innocent until proven guilty*" applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

CHICAGO

LEGAL CONTACT:

Sean Crain, *DLA Piper LLP (US)*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Although there is currently no law in Chicago, Illinois directly applicable to street harassment, a person may be held criminally liable for engaging in conduct that violates the following statutes under Illinois law.

ILLINOIS CRIMINAL CODE: § 12-7.3. STALKING

- (a) A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:
 - (1) fear for his or her safety or the safety of a third person; or
 - (2) suffer other emotional distress.

Example of PARAGRAPH (A): Conduct that is presumed to cause emotional distress includes, among other things, creating a disturbance at the victim's school; repeatedly telephoning the victim's home or residence; repeatedly following the victim in public places; and repeatedly keeping the victim under surveillance by remaining present outside his or her home, school, place of employment, vehicle or other place occupied by the victim.³³

- (a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:
 - (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or
 - (2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person.

Example of PARAGRAPH (A3): Sufficient evidence supported a finding that the victim was placed in reasonable apprehension of bodily harm, so as to support a stalking conviction, where the victim testified that she was frightened by the defendant grabbing her hand in an unusual manner when she was working as a store clerk, following her in her vehicle on two

³³ *Byczek v. Byczek*, 968 N.E.2d 80 (Ill. 2012).

instances as she drove home, and waiting outside her home and work on several occasions.³⁴ Sufficient evidence also supported a finding that the defendant “knowingly” placed the victim in apprehension of bodily harm where he was told on several occasions of the victim’s fears and concerns, was ordered to stay away from the victim’s family, and the defendant received a letter from the State Attorney’s office detailing the effects of his actions on the victim and warning him that he would be criminally prosecuted if his conduct did not cease.³⁵

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

- (1) follows that same person or places that same person under surveillance; and
- (2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

(C) DEFINITIONS

- “Course of conduct” means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person’s property or pet. A course of conduct may include contact via electronic communications.
- “Electronic communication” means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. “Electronic communication” includes transmissions by a computer through the Internet to another computer.
- “Emotional distress” means significant mental suffering, anxiety or alarm.
- “Family member” means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. “Family member” also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.
- “Follows another person” means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. “Follows another person” does not include a following within the residence of the defendant.
- “Non-consensual contact” means any contact with the victim that is initiated

³⁴ *People v. Nakajima*, 691 N.E.2d 153 (Ill. App. Ct. 1998).

³⁵ *Id.*

or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

- “Places a person under surveillance” means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.
- “Reasonable person” means a person in the victim's situation.
- “Transmits a threat” means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

LEVEL OF SERIOUSNESS OF OFFENSE

Stalking is a **CLASS 4 FELONY** – punishable by 1 to 3 years in prison (3 to 6 years for an extended term); and/or a fine of up to \$25,000.

A second or subsequent conviction for stalking is a **CLASS 3 FELONY** – punishable by 2 to 5 years in prison (5 to 10 years for an extended term); and/or a fine up to \$25,000.

ILLINOIS CRIMINAL CODE: § 12-7.4. AGGRAVATED STALKING

(a) A person commits aggravated stalking when he or she commits stalking and:

- (1) causes bodily harm to the victim;
- (2) confines or restrains the victim; or
- (3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in **SUBSECTION (B)(1) OF SECTION 214 OF THE ILLINOIS DOMESTIC VIOLENCE ACT OF 1986**.

(a-1) A person commits aggravated stalking when he or she is required to register under the Sex Offender Registration Act or has been previously required to register under that Act and commits the offense of stalking when the victim of the stalking is also the victim of the offense for which the sex offender is required to register under the Sex Offender Registration Act or a family member of the victim.

LEVEL OF SERIOUSNESS OF OFFENSE

Aggravated stalking is a **CLASS 3 FELONY** – punishable by 2 to 5 years in prison (5 to 10 years for an extended term); and/or a fine up to \$25,000.

A second or subsequent conviction for aggravated stalking is a **CLASS 2 FELONY** – punishable by 3 to 7 years in prison (7 to 14 years for an extended term); and/or a fine up to \$25,000.

Example: Defendant’s conviction for aggravated stalking was supported by sufficient evidence when he held a knife to the victim’s throat and said, “What did you say? You would rather be what than with me?”, went to the victim’s place of employment until he was removed by police, and then returned to the victim’s place of employment and confined her in the lunchroom.³⁶

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Verbal harassment is not outlawed specifically under the [ILLINOIS CRIMINAL CODE](#).

[ILLINOIS CRIMINAL CODE: § 26.5-2. HARASSMENT BY TELEPHONE](#)

A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes:

- (1) Making any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;
- (2) Making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;
- (3) Making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;
- (4) Making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;
- (5) Making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense; or
- (6) Knowingly permitting any telephone under one’s control to be used for any of the purposes mentioned herein.

[ILLINOIS CRIMINAL CODE: § 26.5-3. HARASSMENT THROUGH ELECTRONIC COMMUNICATIONS](#)

A person commits harassment through electronic communications when he or she uses electronic communication for any of the following purposes:

- (1) Making any comment, request, suggestion or proposal which is obscene with an intent to offend;
- (2) Interrupting, with the intent to harass, the telephone service or the electronic communication service of any person;
- (3) Transmitting to any person, with the intent to

³⁶ *People v. Sowewimo*, 657 N.E.2d 1047 (Ill. App. Ct. 1995)

harass and regardless of whether the communication is read in its entirety or at all, any file, document, or other communication which prevents that person from using his or her telephone service or electronic communications device;

- (4) Transmitting an electronic communication or knowingly inducing a person to transmit an electronic communication for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense;
- (5) Threatening injury to the person or to the property of the person to whom an electronic communication is directed or to any of his or her family or household members; or
- (6) Knowingly permitting any electronic communications device to be used for any of the purposes mentioned in this subsection (a).

LEVEL OF SERIOUSNESS OF OFFENSE FOR § 26.5-2 AND § 26.5-3

A person found guilty of an offense can be subject to up to six months in jail; and/or a fine of up to \$1,500. A second or subsequent violation requires the court to impose a minimum of 14 days in jail or, if public or community service is established in the county in which the offender was convicted, 240 hours of public or community service.

In any of the following circumstances, a person found guilty is subject to between 1–3 years in prison; and/or a fine of up to \$25,000:

- (1) The person has 3 or more prior violations in the last 10 years of harassment by telephone, harassment through electronic communications, or any similar offense of any other state;
- (2) The person has previously violated the harassment by telephone provisions, or the harassment through electronic communications provisions, or committed any similar offense in any other state with the same victim or a member of the victim's family or household;
- (3) At the time of the offense, the offender was under conditions of bail, probation, conditional discharge, mandatory supervised release or was the subject of an order of protection, in this or any other state, prohibiting contact with the victim or any member of the victim's family or household;
- (4) In the course of the offense, the offender threatened to kill the victim or any member of the victim's family or household;
- (5) The person has been convicted in the last 10 years of a forcible felony as defined in [SECTION 2-8 OF THE CRIMINAL CODE OF 1961](#) or the [CRIMINAL CODE OF 2012](#);
- (6) The person violates [PARAGRAPH \(5\) OF SECTION 26.5-2](#) or [PARAGRAPH \(4\) OF SECTION 26.5-3](#); or

- (7) The person was at least 18 years of age at the time of the commission of the offense and the victim was under 18 years of age at the time of the commission of the offense.

The court may order any person convicted to submit to a psychiatric examination.

(b) Groping/unwanted physical conduct?

ILLINOIS CRIMINAL CODE: § 5/12-1. ASSAULT

A person commits an **assault** when, without lawful authority, he or she knowingly engages in conduct which places another in reasonable apprehension of receiving a battery.

An assault conviction can lead to jail time or a monetary penalty and/or an order to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed.

LEVEL OF SERIOUSNESS OF OFFENSE

Conviction for assault is a **CLASS C MISDEMEANOR** – punishable by up to 30 days in jail; and/or a fine of up to \$1,500.

Example: Evidence in prosecution for assault was sufficient to support a determination of guilt of defendant, who entered the victim’s office, advanced to within a few inches of him, demanded rent payments, verbally threatened him with physical harm, and screamed at him from a nearby parking lot.³⁷

(c) Public masturbation?

ILLINOIS CRIMINAL CODE: § 11-30. PUBLIC INDECENCY

- (a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency:
- (1) An act of sexual penetration or sexual conduct; or
 - (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person. Breast-feeding of infants is not an act of public indecency.
- (b) “Public place” for purposes of this Section means any place where the conduct may reasonably be expected to be viewed by others.

(c) SENTENCE

Public indecency is a **CLASS A MISDEMEANOR**. A person convicted of a third or subsequent violation for public indecency is guilty of a **CLASS 4 FELONY**. Public indecency is a **CLASS 4 FELONY** if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

³⁷ *People v. Rynberk*, 415 N.E.2d 1087 (Ill. App. Ct. 1980).

LEVEL OF SERIOUSNESS OF OFFENSE

Public indecency is a **CLASS A MISDEMEANOR** –punishable by up to 1 year in jail; and/or a fine of up to \$2,500.

A person convicted of a third or subsequent violation for public indecency is guilty of a **CLASS 4 FELONY** –punishable by between 1 and 3 years in prison; and/or a fine of up to \$25,000.

Public indecency is a **CLASS 4 FELONY** if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

Example: The defendant exposed himself to 12-year-old girl and attempted to corner her against a building while in an area illuminated by street lights.³⁸

(c) Public exposure?**ILLINOIS CRIMINAL CODE: § 11-30. PUBLIC INDECENCY**

- (a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency:
 - (1) An act of sexual penetration or sexual conduct; or
 - (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person. Breast-feeding of infants is not an act of public indecency.
- (b) “Public place” for purposes of this Section means any place where the conduct may reasonably be expected to be viewed by others.

(c) SENTENCE

Public indecency is a **CLASS A MISDEMEANOR**. A person convicted of a third or subsequent violation for public indecency is guilty of a **CLASS 4 FELONY**. Public indecency is a **CLASS 4 FELONY** if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

LEVEL OF SERIOUSNESS OF OFFENSE

Public indecency is a **CLASS A MISDEMEANOR** –punishable by up to 1 year in jail; and/or a fine of up to \$2,500.

A person convicted of a third or subsequent violation for public indecency is guilty of a **CLASS 4 FELONY** –punishable by between 1 and 3 years in prison; and/or a fine of up to \$25,000.

Public indecency is a **CLASS 4 FELONY** if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

³⁸ *People v. Mikota*, 273 N.E.2d 618 (Ill. App. Ct. 1971).

Example: The defendant exposed himself to 12-year-old girl and attempted to corner her against a building while in an area illuminated by street lights.³⁹

MUNICIPAL CODE OF CHICAGO: 8-8-080 INDECENT EXPOSURE OR DRESS

Any person who shall appear, bathe, sunbathe, walk or be in any public park, playground, beach or the waters adjacent thereto, or any school facility and the area adjacent thereto, or any municipal building and the areas adjacent thereto, or any public way within the City of Chicago in such a manner that the genitals, vulva, pubis, pubic hair, buttocks, perineum, anus, anal region, or pubic hair region of any person, or any portion of the breast at or below the upper edge of the areola thereof of any female person, is exposed to public view or is not covered by an opaque covering, shall be fined not less than \$100.00 nor more than \$500.00 for each offense.

LEVEL OF SERIOUSNESS OF OFFENSE:

Violators of this Section will be fined not less than \$100.00 nor more than \$500.00 for each offense.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

The most applicable laws to street harassment in Chicago are likely the **ILLINOIS CRIMINAL CODE PROVISIONS ON STALKING**. Thus, street harassment meeting the statutory definition of stalking should be reported as follows. According to the Domestic Violence Division of the Cook County State Attorney's Office, stalking should be immediately reported to the police. Specifically, the office recommends that victims tell the police exactly what happened and give them the names, addresses, and telephone numbers of anyone who heard or saw the person threaten, follow, or watch you. If the elements of the crime of stalking appear to be present, the police will refer the case to the State's Attorney's Office for prosecution. If the elements of stalking are not present, the police will consider whether different charges might be brought. In any event, ask the police to make a report for future reference.

Stalking victims may also be provided with information and resources to help keep them safe by calling the **Domestic Violence Division** at [312-325-9220](tel:312-325-9220). Other questions may be directed to the **State's Attorney's Victim/Witness Assistance Unit** at [312-869-7200](tel:312-869-7200) or to victim witness personnel at the closest suburban courthouse.

Irrespective of whether the conduct is stalking, incidents of street harassment should be reported to the police.

³⁹ *People v. Mikota*, 273 N.E.2d 618 (Ill. App. Ct. 1971).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The **Cook County State Attorney's Office** provides the following information as a guide to what happens when someone is charged with stalking.

You, the victim, will be assisted by a trained **Victim Witness Specialist** who will accompany you to court and explain each step of the legal process while an **Assistant State's Attorney** prosecutes the stalker.

For your safety, and to prevent further intimidation, the Assistant State's Attorney can request an **Order of Protection** or a **Stalking No Contact Order** from the judge.

A protective order can either be an Order of Protection or a Stalking No Contact Order. Both are court orders issued by a judge prohibiting stalking behaviors against the victim. These conditions may be included in the court order:

- Order the stalker not to contact the victim
- Order the stalker not to threaten the victim
- Require the stalker to stay away from the
- victim, his or her home, workplace or school
- Prohibit the stalker from owning a firearm or FOID card.

If your relationship with the stalker is one of the following, same or opposite sex, you may qualify for an Order of Protection:

Current or Former:

- spouse
- domestic partner
- blood or marriage relative
- boyfriend / girlfriend
- biological parent of your child
- roommate
- caretaker (disabled victim)

If your relationship does not meet one of the above, or if you don't have a previous relationship with the stalker, you may qualify for a Stalking No Contact Order.

According to **Illinois Legal Aid**, a person reporting street harassment that meets the statutory definition of stalking can expect the following process in securing a No Contact Order:

(1) Prepare the Petition for a Stalking No Contact Order

Complete the Stalking No Contact Order forms which you can find in the Forms/Letters section of the **Illinois Legal Aid Website** [🔗](#).

The form includes both an **Emergency Petition for a Stalking No Contact Order** and **Plenary (long-term) Stalking No Contact Order**. You will have to type in the requested information and your forms will automatically be filled out for you. Just print them when you're finished. You can also get copies of the necessary forms you need to get a Stalking No Contact Order from your local circuit court. You should make at least 3 copies of the Petition, Summons, and Order.

(2) File your Petition for a Stalking No Contact Order

You may file at any of the following county courthouses:

- Where you live
- Where the stalker lives
- In the county where one of the stalking events happened

Only file a petition at one of these locations, you do not need to file at each location. The Clerk will stamp the copies of your petition and summons. If you are asking for an **Emergency Stalking No Contact Order**, the judge will hear your case for an Emergency Order right away without the stalker there. The judge may ask you questions about the stalker and the stalker's behavior, before deciding whether to grant the Emergency Order. Remember that this Order is only temporary. The judge will also set a date for a court hearing for a **Plenary (long-term) Stalking No Contact Order** which lasts up to two years. Remember that you should always keep a copy of the Emergency Order with you.

(3) Take the Order and Summons to the Sheriff's office

If you were granted an **Emergency Stalking No Contact Order** or just filed the **Petition for a Plenary (long-term) Stalking No Contact Order**, you or the **County Clerk** must take the Emergency Order and/or Petition and the Summons for the plenary hearing to the county sheriff's office.

The **County Sheriff** will serve the stalker with the Emergency Order and/or Petition and Summons for the hearing. You do not need to give the papers personally to the stalker. The Sheriff's office keeps a copy of the order on file. Remember that the order cannot be enforced against the stalker until it is received from the Sheriff's office. If your **Emergency Stalking No Contact Order** expires before your hearing for the **Plenary Stalking No Contact Order**, you may ask the judge for an **Interim Stalking No Contact Order** until the hearing.

(4) Go to the Hearing for the Plenary Stalking No Contact Order

You must go to the hearing for your **Plenary Stalking No Contact Order** to get a long-term order. If you do not show up at the hearing, the judge may cancel the petition and you will have to start over. The judge may not be as willing to grant you a plenary (long-term) order if you miss your first court date.

At the hearing you may have to answer questions about what happened, before the judge grants the order. If the stalker comes to the hearing, they will have a chance to tell their side of the story. You can bring a lawyer or rape crisis advocate if you wish.

If the offender does not come to the hearing, the judge can issue a plenary order or reschedule the hearing.

(5) Make copies of the Plenary Stalking No Contact Order if Granted

You should read the order before you leave the courthouse. If something is wrong or missing, ask the clerk to correct the order before you leave. Then make copies of the order and always keep one with you. You should also give a copy of the order to anyone who is named in and protected by the order. The court will tell the Sheriff's department about the order, which will be posted so all law enforcement agencies in Illinois know that it must be given to your stalker. The order can only be enforced after your stalker has been notified that there is an order. You can also leave copies of the order at your workplace, at your home, at the children's school or daycare, in your car, with a neighbor, at work, etc.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

Outside of the workplace setting, there are no official policies on harassment that have been instituted in Chicago.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

Yes, street harassment is an issue governed by state law. A plaintiff's success in obtaining relief for street harassment will vary according to whether there are applicable statutes, ordinances or other laws in the state that can be applied to the specific conduct at issue.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Across most U.S. jurisdictions, including Illinois, there are not any harassment laws specifically designed to apply to street harassment. For this reason, complainants will have to work with the existing laws detailed above to successfully bring actions against their harassers. Moreover, many of the statutes discussed assume that the plaintiff can identify his or her harasser. If the complainant is unable to identify the harasser, it will be nearly impossible to obtain any sort of relief.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

A person against whom a harassment complaint has been filed may face the following consequences:

If the offense is classified as [stalking](#), levels of punishment range from 1 to 3 years in prison (3 to 6 years for an extended term) and/or a fine of up to \$25,000. Levels of punishment may be increased for repeated convictions.

If the offense is classified as [aggravated stalking](#), levels of punishment range from 2 to 5 years in prison (5 to 10 years for an extended term) and/or a fine up to \$25,000. Levels of punishment may be increased for repeated convictions.

If the offense is classified as [harassment by telephone](#) or [harassment by electronic communications](#), levels of punishment range from 6 months in jail and/or a fine of up to \$1,500 to between 1 and 3 years in prison and/or a fine of up to \$25,000. Levels of punishment may be increased for repeated convictions.

If the offense is classified as for [assault](#), levels of punishment range from up to 30 days in jail and/or a fine of up to \$1,500.

If the offense is classified as [public indecency](#), levels of punishment range from up to 1 year in jail and/or a fine of up to \$2,500 to between 1 and 3 years in prison and/or a fine of up to \$25,000. Levels of punishment may be increased for repeated offenses.

If the offense is classified as [indecent exposure](#), levels of punishment range from a fine between \$100 and \$500 for each offense.

In harassment cases, the person against whom a complaint is filed may also be subject to a No Contact Order. Specifically, this order may:

- Order the stalker not to contact the victim
- Order the stalker not to threaten the victim
- Require the stalker to stay away from the victim, his or her home, workplace or school, or
- prohibit the stalker from owning a firearm or FOID card.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word against the alleged offender's word. In such cases the principle of *"innocent until proven guilty"* applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

COLUMBIA, MISSOURI

LEGAL CONTACT:

Katharine Liao, *DLA Piper LLP (US)*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes, street harassment may constitute a criminal offense.

HARASSMENT (MO. REV. STAT. § 565.090)

A person commits the crime of harassment if he or she:

- (1) Knowingly communicates a threat to commit any felony to another person and in so doing frightens, intimidates, or causes emotional distress to such other person; or
- (2) When communicating with another person, knowingly uses coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or
- (3) Knowingly frightens, intimidates, or causes emotional distress to another person by anonymously making a telephone call or any electronic communication; or
- (4) Knowingly communicates with another person who is, or who purports to be, seventeen years of age or younger and in so doing and without good cause recklessly frightens, intimidates, or causes emotional distress to such other person; or
- (5) Knowingly makes repeated unwanted communication to another person; or
- (6) Without good cause engages in any other act with the purpose to frighten, intimidate, or cause emotional distress to another person, cause such person to be frightened, intimidated, or emotionally distressed, and such person's response to the act is one of a person of average sensibilities considering the age of such person.

HARASSMENT is a **CLASS A MISDEMEANOR** unless:

- (1) Committed by a person twenty-one years of age or older against a person seventeen years of age or younger; or
- (2) The person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this subsection.

In such cases, harassment shall be a **CLASS D FELONY**.

Examples of convictions under the Harassment statute are limited and typically

involve weapons, or assault. Less severe cases involve repeated telephone calls.

- In one case, defendant made a telephone call to the victim and in so doing used the following coarse language: ‘I have \$10.00 if you have a piece of ass.’⁴⁰
- Defendant made repeated telephone calls to victim for purpose of disturbing.⁴¹

STALKING (MO. REV. STAT. § 565.225)

In some cases, street harassment may rise to the level of [stalking](#).

A person commits the crime of stalking if he or she purposely, through his or her course of conduct, harasses or follows with the intent of harassing another person. For purposes of the crime of stalking, “*harasses*” is defined as engaging in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person under the circumstances to be frightened, intimidated, or emotionally distressed. “*Course of conduct*” is defined as a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however, short, evidencing a continuity of purpose, excluding constitutionally protected activity.

The crime of stalking shall be a **CLASS A MISDEMEANOR** unless the person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section, in which case stalking shall be a **CLASS D FELONY**.

A person commits the crime of [aggravated stalking](#) if he or she purposely, through his or her course of conduct, harasses or follows with the intent of harassing another person, and:

- (1) Makes a credible threat; or
- (2) At least one of the acts constituting the course of conduct is in violation of an order of protection and the person has received actual notice of such order; or
- (3) At least one of the actions constituting the course of conduct is in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal; or
- (4) At any time during the course of conduct, the other person is seventeen years of age or younger and the person harassing the other person is twenty-one years of age or older; or
- (5) He or she has previously pleaded guilty to or been found guilty of domestic assault, violation of an order of protection, or any other crime where the other person was the victim.

⁴⁰ *State v. Koetting*, 616 S.W.2d 822, 823 (Mo. 1981).

⁴¹ *State v. Underwood*, 716 S.W.2d 853, 854 (Mo. Ct. App. 1986).

The crime of **aggravated stalking** is a **CLASS D FELONY** unless the person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section, aggravated stalking shall be a **CLASS C FELONY**.

Convictions typically arise from aggravated stalking cases, in which a threat was made. In one case, the Missouri Court of Appeals affirmed the conviction of a defendant who repeatedly and purposely harassed a victim by making numerous threatening phone calls to her and thereby caused substantial emotional distress to her, and made a credible threat, by stating that he had a bullet for her, with the intent of placing her in reasonable fear of death or serious physical injury.⁴²

HARASSMENT OF BICYCLISTS (LOCAL ORDINANCE SEC. 16-145)

There is also a local ordinance in Columbia providing that a person commits the offense of **harassment** of a bicyclist, pedestrian, or a person in a wheelchair, if the person:

- (1) Knowingly throws an object at or in the direction of any person riding a bicycle, walking, running or operating a wheelchair for the purpose of frightening, disturbing or injuring that person; or
- (2) Threatens any person riding a bicycle, walking, running or operating a wheelchair for the purpose of frightening or disturbing that person; or
- (3) Sounds a horn, shouts or otherwise directs sound toward any person riding a bicycle, walking, running or operating a wheelchair for the purpose of frightening or disturbing that person; or
- (4) Knowingly places a person riding a bicycle, walking, running or operating a wheelchair in apprehension of immediate physical injury; or
- (5) Knowingly engages in conduct that creates a risk of death or serious physical injury to a person riding a bicycle, walking, running or operating a wheelchair.

Harassment of a bicyclist, pedestrian or person in a wheelchair is a **CLASS A MISDEMEANOR**.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, depending on the language and conduct, such behaviour may constitute harassment defined under **MO. REV. STAT. § 565.090**.

⁴² *State v. Martin*, 940 S.W.2d 6, 7 (Mo. Ct. App. 1997)

(b) Groping/unwanted physical conduct?

Yes, it is illegal for anyone to subject a non-consenting person to sexual contact. **Sexual contact** is defined as *“any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person.”* Therefore, if a street harasser gropes a woman’s private areas, then the harasser may be reported for sexual abuse in the second degree (**MO. REV. STAT. §566.101**).

Sexual abuse in the second degree is a **CLASS A MISDEMEANOUR**, punishable by a fine of up to \$1,000 and/or up to 1 year in jail.

(c) Public masturbation?

Yes, exposure of genitals constitutes a crime. A person commits the offense of sexual misconduct in the first degree if such person exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm (**MO. REV. STAT. § 566.093(1)**).

The offense of sexual misconduct in the first degree is a **CLASS B MISDEMEANOR** unless the person has previously been found guilty of an offense under this chapter, in which case it is a **CLASS A MISDEMEANOR**.

Examples of convictions include a man who was convicted for sexual misconduct as a result of publicly masturbating. In that case, the victim was in her college dorm room looking out her window onto a well-lit residential street when she saw a man publicly masturbating while leaning on the victim’s car. She contacted the police and was able to identify the perpetrator in a line up.⁴³

(d) Public exposure?

A person commits the offense of sexual misconduct in the first degree if such person exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm.

The offense of sexual misconduct in the first degree is a **CLASS B MISDEMEANOR** unless the person has previously been found guilty of an offense under this chapter, in which case it is a **CLASS A MISDEMEANOR**.

⁴³ *State v. Brown*, 360 S.W.3d 919, 921 (Mo. Ct. App. 2012).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Harassment should be reported to local police. The emergency telephone number is 9-1-1. For non-emergencies, a person should call (573) 442-6131. A person may also fill out a report online for bicycle harassment here: [Report a Crime Online](#). If the person chooses to file anonymously online, the Columbia Police Department provides the following link: [Columbia Missouri Crime Stoppers](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

A person filing a report by telephone or online should be prepared to provide a description of the alleged harasser, the location of the incident, the time of the incident and any other circumstances surrounding the incident. The police department may or may not dispatch a police officer out to the location, depending on the incident. An individual may also file a complaint anonymously (see 3).

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

Other than the state laws governing harassment and the local ordinance addressing the harassment of bicyclists ([LOCAL ORDINANCE SEC. 16-145](#)), there are no other specific harassment policies.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

Yes, within the U.S., harassment is an issue governed by state law. Also, four cities in Missouri have passed local ordinances prohibiting anti-harassment of bicyclists and/or pedestrians, and Columbia is one of them. Others cities include St. Louis, Greenwood and Independence.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Although there are laws in place, the **Supreme Court of Missouri** has found certain provisions unconstitutionally overbroad (e.g., Mo. Rev. Stat. § 565.090(5)⁴⁴).

44 *State v. Vaughn*, 366 S.W.3d 513 (Mo. 2012).

In doing so, the Court distinguished between the provisions of the statute that were **overbroad** v. **not overly broad**:

- **Overbroad**: prohibition on “repeated unwanted communication to another person.”
- **Not overly broad**: criminalizing conduct by person who, “without good cause, engages in any other act with the purpose to frighten, intimidate, or cause emotional distress to another person, or causes such person to be frightened, intimidated, or emotionally distressed.”

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

Punishments range depending on the type of offense:

- **CLASS A MISDEMEANOR**: up to \$1,000 ([MO. REV. STAT. §560.016](#))
- **CLASS B MISDEMEANOR**: up to \$500 ([MO. REV. STAT. §560.016](#))
- **CLASS C FELONY**: prison term not to exceed seven years ([MO. REV. STAT. § 558.011](#)), a fine not to exceed \$5,000 ([MO. REV. STAT. § 560.011](#)), or both.
- **CLASS D FELONY**: a prison term not to exceed four years ([MO. REV. STAT. §558.011](#)), a fine not to exceed \$5,000 ([MO. REV. STAT. § 560.011](#)), or both.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim’s word is against the alleged offender’s word. In such cases the principle of “*innocent until proven guilty*” applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

DES MOINES, IOWA

LEGAL CONTACT:

Michelle Anderson, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes, under [IOWA CODE § 708.7 HARASSMENT](#):

- 1.a. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:
 - (1) Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.
 - (2) Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.
 - (3) Orders merchandise or services in the name of another, or to be delivered to another, without the other person's knowledge or consent.
 - (4) Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the act did not occur.
- b. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. As used in this section, unless the context otherwise requires, "*personal contact*" means an encounter in which two or more people are in visual or physical proximity to each other. "*Personal contact*" does not require a physical touching or oral communication, although it may include these types of contacts.⁴⁵

Harassment is usually a [SIMPLE MISDEMEANOR](#), which is punishable by a fine of up to \$625 and up to 30 days in jail. If a person commits harassment two times in a ten-year period, the third offense is a [SERIOUS MISDEMEANOR](#), which is punishable by a fine of up to \$1,875 and up to one year in jail. If a person commits harassment three or more times in a ten-year period, the fourth offense and any subsequent offenses are [AGGRAVATED MISDEMEANORS](#), which are punishable by a fine of up to \$6,250 and up to two years in jail.

⁴⁵ See e.g., *In re B.N.B.*, 784 N.W.2d 202 (Iowa Ct. App. 2010), affirming a harassment conviction under § 708.7 for flipping someone off and grabbing a baseball bat during a heated discussion.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, under [IOWA CODE § 708.7 HARASSMENT](#). See e.g., *State v. Stephenson*,⁴⁶ affirming a [CONVICTION FOR HARASSMENT UNDER § 708.7](#) against a defendant who said things like “I’m going to kill you, Julie Winkel” and “Goddamn you Julie Winkel with your highfalutin ideas. You just cost me \$10,000. I’m going to kill you.”

Harassment can be a [SIMPLE MISDEMEANOR](#), a [SERIOUS MISDEMEANOR](#), or an [AGGRAVATED MISDEMEANOR](#), depending on how many times the offender has been convicted in the last ten years. More convictions result in a more serious punishment, as described in Section 1.

(b) Groping/unwanted physical conduct?

Yes, under [IOWA CODE § 708.7 HARASSMENT](#): “A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. As used in this section, unless the context otherwise requires, “personal contact” means an encounter in which two or more people are in visual or physical proximity to each other. “Personal contact” does not require a physical touching or oral communication, although it may include these types of contacts.”

Harassment can be a [SIMPLE MISDEMEANOR](#), a [SERIOUS MISDEMEANOR](#), or an [AGGRAVATED MISDEMEANOR](#), depending on how many times the offender has been convicted in the last ten years. More convictions result in a more serious punishment, as described in Section 1.

(c) Public masturbation?

Yes, public masturbation falls under [IOWA CODE § 709.9 INDECENT EXPOSURE](#):

A person who exposes the person’s genitals or pubes to another not the person’s spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor, if:

- (1) The person does so to arouse or satisfy the sexual desires of either party; and
- (2) The person knows or reasonably should know that the act is offensive to the viewer.

See e.g., *In the Interest of C.C., A Minor Child*,⁴⁷ finding indecent exposure when a boy showed his penis to another person and began masturbating.

Indecent exposure is a serious misdemeanor, which is punishable by a fine of up to \$1,875 and up to one year in jail.

⁴⁶ *State v. Stephenson*, 608 N.W.2d 778 (Iowa 2000).

⁴⁷ *In the Interest of C.C., A Minor Child*, No. 4-374 / 04-0120 (Iowa Ct. App., Filed Sept. 9, 2004),

(d) Public exposure?

Yes, under [§ 709.9 INDECENT EXPOSURE](#):

A person who exposes the person's genitals or pubes to another not the person's spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor, if:

- (1) The person does so to arouse or satisfy the sexual desires of either party; and
- (2) The person knows or reasonably should know that the act is offensive to the viewer.

Indecent exposure is a serious misdemeanor, which is punishable by a fine of up to \$1,875 and up to one year in jail.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

A person who has suffered harassment can report the incident to the police. The **Des Moines Police Department** can be reached at [\(515\) 283-4811](#) for non-emergencies and [911](#) for emergencies.

The Des Moines Police Department's website [🔗](#)

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

A person reporting harassment can expect to be questioned by the police for the victim's name, harasser's name, details of the harassment, relationship between victim and harasser, etc.

The report will be permanent and there is no right to anonymity.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

We are not aware of harassment policies specific to Des Moines.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, they are broadly the same throughout Iowa. Des Moines, Iowa, does not have city-specific harassment laws.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Iowa has a policy against harassment and bullying under [IOWA CODE § 280.28 HARASSMENT AND BULLYING PROHIBITED – POLICY – IMMUNITY](#): *“The state of Iowa is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. The general assembly finds that a safe and civil school environment is necessary for students to learn and achieve at high academic levels. Harassing and bullying behavior can seriously disrupt the ability of school employees to maintain a safe and civil environment, and the ability of students to learn and succeed. Therefore, it is the policy of the state of Iowa that school employees, volunteers, and students in Iowa schools shall not engage in harassing or bullying behavior.”*

Sometimes bullying may lead to criminal charges, but it does so under non-bullying specific laws. See e.g. [Students Face Charges Tied to Alleged Bullying](#), reporting on assault charges.

For more information about bullying in Iowa, see [Des Moines Register: Bullying in Iowa](#). This includes a database that aggregates allegations of bullying in Iowa’s public schools.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described above, if the offense is classified as a [SIMPLE MISDEMEANOR](#), it is punishable by a fine of up to \$625 and up to 30 days in jail.

If the offense is classified as a [SERIOUS MISDEMEANOR](#), it is punishable by a fine of up to \$1,875 and up to one year in jail.

If the offense is classified as an [AGGRAVATED MISDEMEANOR](#), it is punishable by a fine of up to \$6,250 and up to two years in jail.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim’s word against the alleged offender’s word. In such cases the principle of

“innocent until proven guilty” applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

JACKSONVILLE, NORTH CAROLINA

LEGAL CONTACT:

Gavin Reinke, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

While street harassment is not specifically illegal in North Carolina, a person may be guilty of a crime if he/she commits one of the following offenses:

STALKING – N.C. GEN. STAT. § 14-277.3A(C)

A person is guilty of stalking if the person wilfully on more than one occasion harasses another person without legal purpose or wilfully engages in a course of conduct directed at a someone without legal purpose and the person knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

- (1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.
- (2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

The following definitions are applicable to this statute:

- “Course of conduct” – Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- “Harasses/harassment” – Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.
- “Reasonable person” – A reasonable person in the victim's circumstances.
- “Substantial emotional distress” – Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counselling.

A violation under § 14-277.3A(C) IS A CLASS A1 MISDEMEANOR, punishable by up to 150 days in jail. A second violation by a person who has been previously convicted of a stalking offense is a CLASS F FELONY, punishable by 10 to 41 months in prison.

A violation under [§ 14-277.3A\(C\)](#) when there is a court order in effect prohibiting the conduct in question is a **CLASS H FELONY**, punishable by 4 to 25 months in prison.

DISORDERLY CONDUCT – N.C. GEN. STAT. § 14-288.4 – As relevant to street harassment, that statute reads:

- (a) Disorderly conduct is a public disturbance intentionally caused by any person who does any of the following:
 - (1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence.
 - (2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace.

A violation under [§ 14-288.4](#) is a **CLASS 1 MISDEMEANOR** for a first offense, punishable by up to 120 days in jail, a **CLASS I FELONY** for a second offense, punishable by 3 to 12 months in jail, and **CLASS H FELONY** for a third or subsequent offense, punishable by 4 to 25 months in jail.

Jacksonville has no local ordinances that are pertinent to street harassment.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Verbal harassment is not specifically outlawed, but if the harassment is “intended *and* plainly likely to provoke violent retaliation” then it falls under the state’s disorderly conduct statute.

(b) Groping/unwanted physical conduct?

Yes. Under [N.C. GEN. STAT. § 14-27.5A](#), a person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person by force and against the will of the other person. A violation under [§ 14-27.5A](#) is a **CLASS A1 MISDEMEANOR**, punishable by up to 150 days in jail.

If the person acts for a purpose other than sexual arousal, sexual gratification, or sexual abuse, that person is guilty of “second-degree sexual offense” under [N.C. GEN. STAT. § 14-27.5](#).

A violation under [§ 14-27.5](#) is a **CLASS C FELONY**, punishable by 44 to 182 months in prison.

Sexual contact is defined as (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or faeces upon any part of another person ([N.C. GEN. STAT. § 14-27.1\(5\)](#)).

(c) Public masturbation?

Not specifically, but if there is exposure this activity would be punishable under [NORTH CAROLINA'S INDECENT EXPOSURE STATUTE, N.C. GEN. STAT. § 14-190.9](#), which provides “any person who shall wilfully expose the private parts of his or her person in any public place and in the presence of any other person or persons, except for those places designated for a public purpose where the same sex exposure is incidental to a permitted activity, or aids or abets in any such act, or who procures another to perform such act...shall be guilty of a Class 2 misdemeanor,” punishable by up to 60 days in jail.

(d) Public exposure?

Yes. This is specifically covered under North Carolina’s indecent exposure statute, [N.C. GEN. STAT. § 14-190.9](#) (see above).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Harassment should be reported to local police. The emergency telephone number is 9-1-1. Non-emergencies should be directed to [\(910\) 938-7585](#).

For less urgent matters, the Jacksonville Police Department allows citizens to file [online reports](#) for harassing/threatening/obscene phone calls; simple assault (non-domestic violence related); and indecent exposure. This service requires citizens to register with the city, which they can do online at the time they report.

[Jacksonville, North Carolina](#)

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

If the reporter fills out an online report, he/she will not be able to remain anonymous because online reporting requires registration. If he/she calls to report the crime, he/she does have the right to remain anonymous.

The following information should be given when reporting a crime:

- Your name (optional)
- Your location (optional)
- What crime is being committed?
- Where is the crime occurring?
- Who is involved?
- What do they look like?
- What do any vehicles involved look like?

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific policies regarding street harassment that have been put in place.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, as the criminal offenses in North Carolina are determined by state law, the same laws apply throughout the entire state.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

The **Jacksonville Police Department** has a victim assistance program that offers confidential services free of charge to crime victims, including:

- Crisis intervention and short-term counselling
- Counselling and support group referrals
- Referrals to social service and criminal justice agencies for needed information and services
- Information on the status of the investigation
- Explanation of the criminal justice system and the victim's role in that system
- Accompaniment, information, and emotional support during medical, law enforcement and court procedures
- Orientation to the courtroom setting
- Assistance in securing victim compensation benefits if available
- Assistance with preparation of a Victim Impact Statement
- Employer intervention to explain time missed from work due to cooperation with law enforcement investigation procedures
- Assistance if you are intimidated, harassed, or threatened
- Personal safety and crime prevention information

This program may be reached at [\(910\) 455-2472](tel:9104552472).

Additionally, victims of unlawful conduct can go to the district court (state court) in the county in which he/she lives, the county where the perpetrator lives, or the county where the unlawful conduct took place and apply for a **CIVIL NO-CONTACT ORDER** (also known as a **50C ORDER**). There are no court costs for getting one of these orders, and

the court may grant one or more of the following forms of relief upon finding that the victim has suffered unlawful conduct committed by the respondent:

- Order the respondent not to visit, assault, molest, or otherwise interfere with the victim.
- Order the respondent to cease stalking the victim, including at the victim's workplace.
- Order the respondent to cease harassment of the victim.
- Order the respondent not to abuse or injure the victim.
- Order the respondent not to contact the victim by telephone, written communication, or electronic means.
- Order the respondent to refrain from entering or remaining present at the victim's residence, school, place of employment, or other specified places at times when the victim is present.
- Order other relief deemed necessary and appropriate by the court.

If the perpetrator knowingly violates the no-contact order, he/she can be fined or imprisoned for contempt of court.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The police will investigate but, as the laws in this jurisdiction are not very specific to victims of street harassment, a prosecution might not be very likely unless the harassment rises to the level of disorderly conduct, is repetitive and therefore can be classified as stalking, or is accompanied by the threat of physical violence, in which case it could be considered assault.

The criminal law process involves a number of stages. These stages may vary depending on the jurisdiction and severity of the crime. In particular, local enforcement authorities may have limited resources and therefore may proceed with any of the following processes more or less slowly depending upon the severity of the crime, the strength of the evidence of the crime and other factors. In general, the criminal justice process involves the following stages:

State law enforcement officials or local law enforcement investigate the crime

- A state court judge may issue a search warrant that allows investigators to search for evidence at a specific location
- Law enforcement officials will interrogate witnesses and potential suspects to gain more information
- If the officers have probable cause to believe a crime has been committed, they will arrest the person suspected of committing the crime

- Law enforcement officials will decide to file criminal charges against the person suspected of committing the crime
- The charges will be read to the person in court during an arraignment, where the person accused of the crime is asked to plead guilty or not guilty
- The person accused of the crime (also known as the defendant) may be released from custody or may be kept in jail while awaiting trial
- Before trial, the defendant’s criminal defense attorney may attempt to negotiate a plea bargain, or agreement for the defendant to plead guilty to lesser charges
- If a plea agreement cannot be reached, the defendant’s case will be resolved in a trial, where evidence is presented and either a judge or jury decides whether the defendant is guilty of the crime
- After the judge or jury considers all of the evidence, a verdict is reached
- If the defendant is found guilty, he or she may choose to appeal the decision and ask a higher state court to overturn it because of mistakes made during the criminal justice process
- If the defendant is found guilty, the punishment may vary depending on the severity of the crime, the defendant’s intentions when he or she committed the crime, and past criminal record.

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described above in section 1, if the offense is classified as a ‘MISDEMEANOR’ it will appear as a crime on the offender’s criminal record. **CLASS 3 MISDEMEANORS** are punishable by up to 20 days in jail, **CLASS 2 MISDEMEANORS** are punishable by up to 60 days in jail, **CLASS 1 MISDEMEANORS** are punishable by up to 120 days in jail, and **CLASS A1 MISDEMEANORS** are punishable by up to 150 days in jail.

If the offense is classified as a ‘FELONY’ it will appear as a crime on the offender’s criminal record. **CLASS I FELONIES** are punishable by up to 12 months in jail, **CLASS H FELONIES** are punishable by up to 25 months in jail, **CLASS G FELONIES** are punishable by up to 31 months in jail, **CLASS F FELONIES** are punishable by up to 41 months in jail, **CLASS E FELONIES** are punishable by up to 63 months in jail, **CLASS D FELONIES** are punishable by up to 160 months in jail, **CLASS C FELONIES** are punishable by up to 182 months in jail, **CLASS B2 FELONIES** are punishable by up to 393 months in jail, **CLASS B1 FELONIES** are punishable by a sentence of up to life without parole, and **CLASS A FELONIES** are punishable by a death sentence.

MINNEAPOLIS AND ST PAUL

LEGAL CONTACT:

Daniel Egan, *DLA Piper*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of laws that make harassment or similar conduct illegal.

Minnesota specifically makes harassment illegal, and defines “*harassment*” as including “*a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.*” ([MINN. STAT. § 609.748.](#))

In addition, certain acts of harassment or similar conduct may constitute disorderly conduct or public nuisance, both of which are illegal under Minnesota law. With respect to disorderly conduct, Minnesota law provides as follows ([MINN. STAT. § 609.72.](#)):

Whoever does any of the following in a public or private place, including on a school bus, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

- (1) engages in brawling or fighting; or
- (2) disturbs an assembly or meeting, not unlawful in its character; or
- (3) engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

Misdemeanors are punishable by imprisonment for not more than 90 days or payment of a fine of not more than \$1,000, or both ([MINN. STAT. § 609.03.](#)).

Minnesota law provides as follows with respect to public nuisance ([MINN. STAT. § 609.74.](#)):

Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (1) maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

- (3) is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

Further, Minnesota has several statutes making various sexual conduct illegal, including non-consensual sexual contact with another person and the use of force or coercion to accomplish sexual contact with another person ([MINN. STAT. §§ 609.345](#) and [609.3451](#)).

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. Minnesota's definition of "harassment" includes harassing "words" and "gestures" ([MINN. STAT. § 609.748](#)).

(b) Groping/unwanted physical conduct?

Yes. Groping and unwanted physical conduct would fall under Minnesota's criminal sexual conduct statutes and, depending on the circumstances, would constitute fourth or fifth degree criminal sexual conduct ([MINN. STAT. §§ 609.345](#) and [609.3451](#)). A person convicted of fourth degree criminal sexual conduct may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than \$20,000, or both. A person convicted of fifth degree criminal sexual conduct may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

(c) Public masturbation?

Yes. Under Minnesota law, a person is guilty of criminal sexual conduct in the fifth degree if such person "engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present" ([MINN. STAT. § 609.3451](#)). A person convicted of fifth degree criminal sexual conduct may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

A person is guilty of a [GROSS MISDEMEANOR](#) for such conduct if committed in the presence of a minor under the age of 16, regardless of whether such person knew or should have known the minor was present (note that criminal sexual conduct in the fifth degree requires actual knowledge or a reason to know), and a person is guilty of a misdemeanor for such conduct if committed with no minor present. Such a gross misdemeanor and misdemeanor constitute [indecent exposure](#) under Minnesota law, which is discussed below. Gross misdemeanors are punishable by imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both ([MINN. STAT. § 609.03](#)).

(d) Public exposure?

Yes. Minnesota law provides as follows with respect to indecent exposure ([MINN. STAT. § 617.23](#)):

A person who commits any of the following acts in any public place, or in any

place where others are present, is guilty of a misdemeanor:

- (1) wilfully and lewdly exposes the person's body, or the private parts thereof;
- (2) procures another to expose private parts; or
- (3) engages in any open or gross lewdness or lascivious behaviour, or any public indecency other than behaviour specified in this subdivision.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Any instances of harassment should be reported to the police and, in emergencies, the victim can call [911](#). In Minneapolis, non-emergency incidents may be called in to a non-emergency number ([612-348-2345](#) for Minneapolis and [651-291-1111](#) for St. Paul).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

As discussed in more detail below, a victim of harassment can file a petition with a district court seeking a restraining order and will need to state with specificity the facts and circumstances. The victim will need to file a petition providing his or her name, the name of the accused, and state specific facts and circumstances regarding why the restraining order is appropriate.

With respect to anonymity, when dialling the non-emergency number in Minneapolis, the caller's phone number and address are not automatically provided to operators. There is otherwise no general right to anonymity.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

We are unaware of any specific policies put in place.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

N/A.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Minnesota specifically encourages communities, people living on the same block or in the same apartment buildings, etc. to form organizations to help fight and prevent crime.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

If the person complained about is found guilty of any of the harassment described above, such person likely will be fined and/or imprisoned for a period of time, depending on the severity of the crime.

If the crime is a **FELONY**, the person may be subject to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

If the crime is a **GROSS MISDEMEANOR**, the person may be subject to imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both.

If the crime is a **MISDEMEANOR**, the person may be subject to imprisonment for not more than 90 days or payment of a fine of not more than \$1,000, or both.

A person guilty of **CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE** may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than \$40,000, or both.

A person guilty of **CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE** may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than \$35,000, or both.

A person guilty of **CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE** may be sentenced to imprisonment for not more than 15 years or to a payment of a fine of not more than \$30,000, or both.

A person guilty of **CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE** may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than \$20,000, or both.

A person guilty of **CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE** may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify

the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word is against the alleged offender's word. In such cases the principle of "*innocent until proven guilty*" applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

NEW YORK


LEGAL CONTACT:

Lauren Ackermann, *DLA Piper LLP (US)*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of specific laws which make street harassment illegal under certain circumstances.

(a) Harassment

The State of New York prohibits both harassment and aggravated harassment in the first and second degree ([New York Penal Law](#) .

(i) HARASSMENT IN THE FIRST DEGREE: §240.25 OF THE NEW YORK PENAL LAW provides:

A person is guilty of harassment in the first degree when he or she intentionally and repeatedly harasses another person by following such person in or about a public place or places or by engaging in a course of conduct or by repeatedly committing acts which places such person in reasonable fear of physical injury.

For example, repeatedly following someone around a public place or engaging in a series of acts, even if very close together in time, that cause the victim to be reasonably afraid of being physically harmed, such as making threats or standing in front of the victim to block their path, constitutes **HARASSMENT IN THE FIRST DEGREE**. The victim need not actually be touched or harmed by the harasser.

There must be an intent to harass, annoy or alarm the victim to constitute harassment in the first or second degree.

Harassment in the First Degree is a **CLASS B MISDEMEANOR** which means that it appears on the offender's criminal record and is generally punishable by up to 90 days in jail.

(ii) HARASSMENT IN THE SECOND DEGREE: §240.26 OF THE NEW YORK PENAL LAW provides:

A person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person:

- (2) He or she strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same; or
- (3) He or she follows a person in or about a public place or places; or

- (4) He or she engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

For example, following someone around a public place, making threats against someone, and/or touching or threatening to touch someone with the intent to cause the victim to be reasonably afraid of being physically harmed constitutes **HARASSMENT IN THE SECOND DEGREE**. The victim need not actually be touched or harmed by the harasser. The main difference between first and second degree harassment is that first degree harassment requires repeated instances of harassment while second degree harassment sometimes does not.

There must be an intent to harass, annoy or alarm the victim to constitute **HARASSMENT IN THE FIRST OR SECOND DEGREE**.

Harassment in the Second Degree is a **VIOLATION** which means that it is not a crime that appears on a criminal record. It is generally punishable by up to fifteen days in jail.

- (iii) **AGGRAVATED HARASSMENT IN THE FIRST DEGREE: §240.31 OF THE NEW YORK PENAL LAW** provides:

A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's...gender... or sexual orientation, regardless of whether the belief or perception is correct, he or she:...Commits the crime of aggravated harassment in the second degree and has been previously convicted of the crime of aggravated harassment in the second degree for the commission of conduct proscribed by the provisions of subdivision three of § 240.30 or he has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years...

For example, a person that physically touches or threatens to touch someone with the intent to cause the victim to be reasonably afraid of being physically harmed because of a belief about the victim's gender, age or sexual orientation, and has either been convicted of aggravated harassment in the second degree at any time in the past, or has already been convicted of aggravated harassment in the first degree within the last ten years, may be guilty of **AGGRAVATED HARASSMENT IN THE FIRST DEGREE**.

Aggravated Harassment in the First Degree is a **CLASS E FELONY** which means that it appears on the offender's criminal record. It is generally punishable by one to four years in jail or prison.

- (iv) **AGGRAVATED HARASSMENT IN THE SECOND DEGREE: §240.30 OF THE NEW YORK PENAL LAW** provides:

A person is guilty of aggravated harassment in the second degree when, with intent to harass, annoy, threaten or alarm another person, he or she:...

- (1) Strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's... gender...or sexual orientation, regardless of whether the belief or perception is correct; or
- (2) Commits the crime of harassment in the first degree and has previously been convicted of the crime of harassment in the first degree as defined by [§ 240.25](#) of this article within the preceding ten years...

Aggravated Harassment in the Second Degree is a **CLASS A MISDEMEANOR** which means that it appears on the offender's criminal record. It is generally punishable by up to one year in jail.

(b) Forcible Touching

The State of New York prohibits forcible touching. [§ 130.52 OF THE NEW YORK PENAL LAW](#) [↗](#) provides:

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

For example, this includes behaviour like intentionally squeezing, grabbing or pinching someone's buttocks, breast, or genitalia. A pat on the buttocks may not rise to the level of 'forcible' touching. The touching must be for sexual purposes.

Forcible Touching is a **CLASS A MISDEMEANOR** which means that it appears on the offender's criminal record. It is generally punishable by up to one year in jail.

(c) Sexual Abuse

The State of New York prohibits sexual abuse in the first, second and third degree ([NEW YORK PENAL LAW](#) [↗](#)). The statutes prohibit various types of 'sexual contact' which means any touching of the sexual or other intimate parts of a person, either directly or through clothing, for sexual gratification.

- (i) **SEXUAL ABUSE IN THE FIRST DEGREE: §130.65 OF THE NEW YORK PENAL LAW** provides:

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

- (1) By forcible compulsion;
- (2) When the other person is incapable of consent by reason of being physically helpless;
- (3) When the other person is less than eleven years old; or

- (4) When the other person is less than thirteen years old and the actor is twenty-one years old or older

For example, this includes behaviour like kissing, groping and any other sexual touching that is achieved through forcible contact.

Sexual Abuse in the First Degree is a **CLASS D FELONY** which means that it appears on the offender's criminal record. It is generally punishable by one to seven years in jail or prison.

- (ii) **SEXUAL ABUSE IN THE SECOND DEGREE: §130.60 OF THE NEW YORK PENAL LAW** provides:

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

- (1) Incapable of consent by reason of some factor other than being less than seventeen years old; or
- (2) Less than fourteen years old.

For example, this prohibits sexual contact with any person under the age of fourteen, as well as sexual contact with a person who cannot consent because they are mentally disabled, mentally incapacitated (i.e., is involuntarily under the influence of drugs or alcohol and unable to control his or her own conduct) or physically helpless (i.e., is voluntarily under the influence of drugs or alcohol, is asleep, or is otherwise unconscious and physically unable to communicate unwillingness to engage in the sexual contact).

Sexual Abuse in the Second Degree is a **CLASS A MISDEMEANOR** which means that it appears on the offender's criminal record. It is generally punishable by up to one year in jail.

- (iii) **SEXUAL ABUSE IN THE THIRD DEGREE: §130.55 OF THE NEW YORK PENAL LAW** provides:

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent.


For example, this includes behaviour like kissing, groping and any other sexual touching that the victim does not consent to. **SEXUAL ABUSE IN THE THIRD DEGREE** is different than Sexual Abuse in the First Degree in that there is no requirement of force.

A defendant will not be guilty of Sexual Abuse in the Third Degree if the victim is older than fourteen but less than seventeen years old, the

defendant is less than five years older than the victim, and the only reason for the lack of consent is that the victim was less than seventeen years old.

Sexual Abuse in the Third Degree is a **CLASS B MISDEMEANOR** which means that it appears on the offender's criminal record. It is generally punishable by up to 90 days in jail.

(d) **Public Lewdness**


The State of New York prohibits public lewdness. [§245.00 OF THE NEW YORK PENAL LAW](#)  provides:

A person is guilty of public lewdness when he intentionally exposes the private or intimate parts of his body in a lewd manner or commits any other lewd act (a) in a public place, or (b) in private premises under circumstances in which he may readily be observed from either a public place or from other private premises, and with intent that he be so observed.

For example, this includes behaviour like exposing genitals in a 'lewd', i.e. sexual, way, either in public or from a private place where the exposure can be observed by those in public. This also includes masturbation in a public place.

Public Lewdness is a **CLASS B MISDEMEANOR** which means that it appears on the offender's criminal record. It is generally punishable by up to 90 days in jail.

(e) **Public Exposure**


The State of New York prohibits public exposure. [§245.01 OF THE NEW YORK PENAL LAW](#)  provides:

A person is guilty of exposure if he appears in a public place in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment.

For example, this includes behaviour like exposing genitals or buttocks in public, including in the act of masturbation. Unlike the crime of Public Lewdness, **PUBLIC EXPOSURE** does not require that nudity be accompanied by a sexual act. Despite the language of the statute, courts have held that women may expose their breasts in public if done in a noncommercial, non-lewd manner.

Public Exposure is a **VIOLATION** which means that it is not a crime that appears on the offender's criminal record. It is generally punishable by up to fifteen days in jail.

(f) **Disorderly Conduct**

The State of New York prohibits disorderly conduct. [§245.01 OF THE NEW YORK PENAL LAW](#)  provides:


A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

- (1) He engages in fighting or in violent, tumultuous or threatening behaviour; or
- (2) He makes unreasonable noise; or
- (3) In a public place, he uses abusive or obscene language, or makes an obscene gesture;...

For example, this includes the making of loud, personally directed abusive insults in public or publicly making an obscene gesture, and thereby creating a serious risk of public inconvenience, annoyance or alarm.

DISORDERLY CONDUCT is a **VIOLATION** which means that it is not a crime that appears on the offender's criminal record. It is generally punishable by up to fifteen days in jail.

(g) Stalking

The State of New York prohibits stalking. [§120.45 OF THE NEW YORK PENAL LAW](#)  prohibits stalking in the fourth degree and provides:

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

- (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
- (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct;...

For example, this includes a series of acts over a period of time, such as following or speaking to a person, after previously being told to stop and when the person knows or should know that the acts will materially harm the mental or emotional health of the victim. This also includes any series of acts over a period of time that the person knows or reasonably should know are likely to cause the victim to be afraid that they will be physically harmed.

STALKING is a **CLASS B MISDEMEANOR** which means that it appears on the offender's criminal record. It is generally punishable by up to 90 days in jail.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Using threatening or abusive words which cause harassment or rise to the level of disorderly conduct is against the law under [§240 OF THE NEW YORK PENAL CODE](#) (see sections 1(a) and 1(f) above).

(b) Groping/unwanted physical conduct?

Touching which places someone in the fear of physical injury or striking, shoving, kicking or otherwise touching someone, or attempting or threatening to do the same, is prohibited harassment under [§240 OF THE NEW YORK PENAL CODE](#) (see section 1(a) above).

Intentionally squeezing, grabbing or pinching someone's buttocks, breast, or genitalia is forcible touching under [§130 OF THE NEW YORK PENAL CODE](#) (see section 1(b) above).

Sexual touching (such as groping) without consent is sexual abuse under [§ 130 OF THE NEW YORK PENAL CODE](#) (see section 1(c) above).

(c) Public masturbation?

Public masturbation is prohibited as either public lewdness or public exposure under [§245 OF THE NEW YORK PENAL CODE](#) (see sections 1(d) and 1(e) above).

(d) Public exposure?

Public exposure is prohibited as either public lewdness (if accompanied by a sexual act) or public exposure under [§245 OF THE NEW YORK PENAL CODE](#) (see sections 1(d) and 1(e) above).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. [to local police, specific hotlines or other dedicated anti-harassment resources](#)

Any instances of harassment should be reported to the local police. In emergencies call [911](#), otherwise go to or contact your nearest police station, or dial [311](#) (non-emergency police line).

Victims of sexual assault and harassment are encouraged to come forward and report crime. The [NYPD](#) [🔗](#) has established a sex crimes report line at [\(212\) 267-RAPE](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. [filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc](#)

The police will log the report of a crime and should provide you with a complaint number for further reference. They usually wish to take a statement from you as a basis for the complaint. There is no general right to anonymity and only limited rights to anonymity after a case has gone to Court.

Persons who call the NYPD sex crimes report line may remain anonymous.

Persons who have been attacked because of their sexual orientation and file a complaint with the **NYC Commission on Human Rights** will be interviewed, a complaint may be filed and served on the attacker, and there may be an investigation and possibly a hearing. The reporting person may not remain anonymous and there will be a permanent record of the complaint.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

We are not aware of any specific anti-harassment policies that are sponsored by New York City, but there are several local initiatives seeking to reduce street harassment. Examples of such initiatives include:

New Yorkers for Safe Transit [↗](#) is a coalition of community-based organizations working to eliminate gender and discrimination based violence, including street harassment and assault, which occurs in New York City's mass transit system. NYFST mobilizes communities to increase safety in New York City's mass transit system and holds the Metropolitan Transportation Authority and the New York Police Department accountable while raising public awareness about issues affecting mass transit safety.

The **Brooklyn Bike Patrol** [↗](#) is a volunteer group that escorts women home from the subway late at night. The group works at 38 subway stations around the borough, from Borough Park to Bedford Stuyvesant to Williamsburg. Anyone interested in an escort can call Jay Ruiz at (718) 744-7592.

The **Center for Anti-Violence Education** [↗](#) offers self-defence classes for women and transpeople. Fees for the course are calculated on a sliding scale based on income and free childcare is available to all students.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

Harassment laws apply throughout the State of New York.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

The **Anti-Violence Project** is an organization that aims to empower lesbian, gay, bisexual, transgender, queer, and HIV-affected communities and allies to end all forms of violence through organizing and education, and supports survivors through counselling and advocacy. Persons who are the victims of hate violence and sexual violence may report such violence to the Anti-Violence Project to assist in their collection

of data regarding the prevalence of such violence. The Anti-Violence Project also offers counselling services and support groups for victims. You can contact the Anti-Violence Project at its free, bilingual (English/Spanish), 24-hour, 365-day-a-year crisis intervention hotline at [\(212\) 714-1141](tel:2127141141).

The **New York City Alliance Against Sexual Assault** is an organization that aims to prevent sexual violence and reduce the harm it causes through education, research and advocacy. It provides resources to victims of sexual assault. You can contact them by phone at [\(212\) 229-034](tel:212229034), by e-mail at contact-us@svfreenyc.org, or visit the webpage [🔗](#).

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The scope of consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described above in section 1, if the offense is classified as a **'VIOLATION'** it will not appear on the offender's criminal record and it will generally be punishable by up to fifteen days in jail.

If the offense is classified as a **'MISDEMEANOR'** it will appear on the offender's criminal record. **CLASS A MISDEMEANORS** are punishable by up to a year in jail and **CLASS B MISDEMEANORS** are punishable by up to 90 days in jail.

If the offense is classified as a **'FELONY'** it will appear on the offender's criminal record. **CLASS D FELONIES** are punishable by one to seven years in jail or prison and **CLASS E FELONIES** are punishable by one to four years in jail or prison.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word is against the alleged offender's word. In such cases the principle of *"innocent until proven guilty"* applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

OHIO

LEGAL CONTACT:

Emily Battersby, *DLA Piper LLP (US)*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Many forms of street harassment are unlawful. While there is no general law that makes street harassment illegal, specific types of street harassment are prohibited by state law or municipal ordinance. For example, disorderly conduct, stalking, sexual imposition, voyeurism and public indecency are all prohibited by various state laws, as described in further detail below.

(a) Disorderly Conduct

According to [SECTION 2917.11 OF THE OHIO CRIMINAL CODE](#), “(A) No person shall recklessly cause inconvenience, annoyance, or alarm to another by doing any of the following... (2) Making unreasonable noise or an offensively coarse utterance, gesture, or display or communicating unwarranted and grossly abusive language to any person; (3) Insulting, taunting, or challenging another, under circumstances in which that conduct is likely to provoke a violent response...” A person violating this section is guilty of [disorderly conduct](#), which is a [MINOR MISDEMEANOR](#). (Although the penalty is within a court’s discretion, a person guilty of a minor misdemeanor may not be subject to a jail or prison term. A person guilty of a misdemeanor may be subject only to a jail term.)

(b) Menacing by Stalking

According to [SECTION 2903.211 OF THE OHIO CRIMINAL CODE](#), “(A)(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person... (3) No person, with a sexual motivation, shall violate division (A)(1) or (2) of this section.” A person violating this section is guilty of menacing by stalking, which is a misdemeanor of the first degree. (Although the penalty is within a court’s discretion, a person guilty of a misdemeanor of the first degree may not be subject to a jail term of greater than 180 days.)

(c) Sexual Imposition

According to [SECTION 2907.06 OF THE OHIO CRIMINAL CODE](#), “(A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies: (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard. (2) The offender knows that the other person’s, or one of the other person’s,

ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired. (3) The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact..." A person violating this section is guilty of sexual imposition, which is a misdemeanor of the third degree. (Although the penalty is within a court's discretion, a person guilty of a misdemeanor of the third degree may not be subject to a jail term of greater than 60 days.)

(d) Voyeurism.

According to [SECTION 2907.08 OF THE OHIO CRIMINAL CODE](#), "(A) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another." A person violating this section is guilty of voyeurism, which is a misdemeanor of the third degree. (Although the penalty is within a court's discretion, a person guilty of a misdemeanor of the third degree may not be subject to a jail term of greater than 60 days.)

(e) Public Indecency.

According to [SECTION 2907.09 OF THE OHIO CRIMINAL CODE](#), "(A) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household: (1) Expose the person's private parts; (2) Engage in sexual conduct or masturbation; (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation." A person violating this section is guilty of public indecency, which is a misdemeanor. (Although the penalty is within a court's discretion, a person guilty of violating subsection (A)(1) commits a misdemeanor in the third degree and may not be subject to a jail term of greater than 60 days. A person guilty of violating subsections (A)(2) or (A)(3) commits a misdemeanor of the second degree, and may not be subject to a jail term of greater than 90 days.)

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes, see [R.C. § 2917.11\(A\)](#) stated in relevant part as number 1 above.

(b) Groping/unwanted physical conduct?

Yes, see [R.C. § 2907.06\(A\)](#) stated in relevant part as number 3 above.

(c) Public masturbation?

Yes, see [R.C. § 2907.09\(A\)\(2\)](#) stated in relevant part as number 5 above.

(d) Public exposure?

Yes, see [R.C. § 2907.09\(A\)\(1\)](#) stated in relevant part as number 5 above.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Any instances of harassment may be reported to the police. In emergencies call [911](#), otherwise go to or contact your nearest police station at [614-645-4545](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The victim should call [614-645-4545](#) and request a police officer fill out a report. There is no general right to anonymity.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

No.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, the applicable statute is an Ohio statute.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Stricter punishments are imposed when the behaviour is directed towards minors.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself. Much of the punishment is left to the discretion of the judge.

As described above in section 1, if the offense is classified as a [MINOR MISDEMEANOR](#), it is punishable only monetary penalties and/or community service, not jail time.

If the offense is classified as a [MISDEMEANOR OF THE FOURTH DEGREE](#), it is punishable by not more than 30 days in jail.

If the offense is classified as a [MISDEMEANOR OF THE THIRD DEGREE](#), it is punishable by not more than 60 days in jail.

If the offense is classified as a [MISDEMEANOR OF THE SECOND DEGREE](#), it is punishable by not more than 90 days in jail.

If the offense is classified as a [MISDEMEANOR OF THE FIRST DEGREE](#), it is punishable by not more than 180 days in jail.

If the offense is classified as a [FELONY](#), it is punishable by 6 months or more in prison.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word against the alleged offender's word. In such cases the principle of "*innocent until proven guilty*" applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain. This is especially true because certain statutes such as [R.C. § 2907.06\(B\)](#) state, "*No person shall be convicted of a violation of this section [Sexual Imposition] solely upon the victim's testimony unsupported by other evidence.*"

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

PHILADELPHIA

LEGAL CONTACT:

Lauren Ackermann, *DLA Piper LLP (US)*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Yes. There are a number of specific laws which make street harassment illegal under certain circumstances.

(a) Harassment

The Commonwealth of Pennsylvania prohibits harassment ([§2709\(A\) OF THE PENNSYLVANIA CRIMES CODE](#) [↗](#)).

A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person:

- (1) strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same;
- (2) follows the other person in or about a public place or places;
- (3) engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose;
- (4) communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures;
- (5) communicates repeatedly in an anonymous manner;
- (6) communicates repeatedly at extremely inconvenient hours; or
- (7) communicates repeatedly in a manner other than specified in paragraphs (4), (5) and (6).

“Course of conduct” is defined as a pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. A course of conduct intended to harass, annoy or alarm a person can be based on words alone. For example, a defendant may be found guilty of harassment for speaking in obscenities or making verbal threats.

Engaging in a course of conduct or repeatedly committing acts which serve no legitimate purpose requires a series of acts rather than a single, isolated act. For example, repeatedly making obscene or offensive comments to another person with the intent to harass, annoy or alarm them will constitute harassment.

A violation under subsection (1), (2), or (3) is a summary offense, the lowest criminal offense under Pennsylvania criminal law, and is generally punishable by a jail sentence

of up to 90 days and a fine up to \$300. A violation under subsection (4), (5), or (6) is a third degree misdemeanor, which is punishable by up to one year in prison.

(b) Disorderly Conduct

The Commonwealth of Pennsylvania prohibits harassment. [§5503 OF THE PENNSYLVANIA CRIMES CODE](#)  provides:

A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (1) engages in fighting or threatening, or in violent or tumultuous behaviour;
- (2) makes unreasonable noise;
- (3) uses obscene language, or makes an obscene gesture; or
- (4) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

“Public” means affecting or likely to affect persons in a place to which the public or a substantial group has access, including highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighbourhood, or any premises which are open to the public.

[§5503](#) is intended to preserve the public peace by prohibiting acts that are likely to create a public nuisance. For example, loudly speaking obscenities or making insulting or offensive statements in a public place is prohibited under the statute. The statute also prohibits using obscene language or making an obscene gesture (i.e., language or gestures having something to do with sex) in a public place.

A violation under [§5503](#) is a third degree misdemeanor if the intent of the actor is to cause substantial harm or serious inconvenience, or if he persists in disorderly conduct after reasonable warning or request to desist, and is punishable by up to one year in prison. Otherwise, disorderly conduct is a summary offense, the lowest criminal offense under Pennsylvania criminal law, and is generally punishable by a jail sentence of up to 90 days and a fine up to \$300.

(c) Open Lewdness and Indecent Exposure

The Commonwealth of Pennsylvania prohibits both open lewdness and indecent exposure, which are interpreted as being virtually the same offense.

- (i) **OPEN LEWDNESS: §5901 OF THE PENNSYLVANIA CRIMES CODE**  provides:

A person commits a misdemeanor of the third degree if he does any lewd act which he knows is likely to be observed by others who would be affronted or alarmed.

Acts of open lewdness involve sexuality or nudity in public.

A violation under [§5901](#) is a third degree misdemeanor and is punishable by up to one year in prison.

- (ii) **INDECENT EXPOSURE: §3127 OF THE PENNSYLVANIA CRIMES CODE** [↗](#).
provides:

A person commits indecent exposure if that person exposes his or her genitals in any public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm.

A violation under §5503 is a first degree misdemeanor if the person knows or should have known that any of the persons present are under 16 years old, and is punishable by up to five years in prison. Otherwise, indecent exposure is a second degree misdemeanor, and is punishable by up to two years in prison.

For example, the public exposure of one's genitals or masturbating in public in plain view each constitute both open lewdness and indecent exposure.

(d) **Stalking**

The Commonwealth of Pennsylvania prohibits stalking. [§2709 OF THE PENNSYLVANIA CRIMES CODE](#) [↗](#) provides:

A person commits the crime of stalking when the person either:

- (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
- (2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

“Communicates” is defined as conveying a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

“Course of conduct” is defined as a pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously.

“Emotional distress” is defined as a temporary or permanent state of mental anguish.

For example, following someone or speaking to someone in an obscene or sexual way two or more times with the intent to either make that person reasonably fear bodily injury or to cause substantial distress to that person is stalking, even if the follower does not attempt to approach or physically harm the victim.

A person's first offense is a **FIRST DEGREE MISDEMEANOR**, and is generally punishable by up to one year in prison. A second offense under §2709 or a first offense if the person has previously been convicted of a violent crime involving the same victim is a **THIRD DEGREE FELONY**, and is punishable by up to seven years in prison.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Using threatening or abusive words which cause harassment or which are used in public and rise to the level of disorderly conduct is against the law under [§2709\(A\)](#) or [§5503 OF THE PENNSYLVANIA CRIMES CODE](#) (see sections 1(a) and 1(b) above).

Repeated verbal harassment with the intent to either make the victim reasonably fear bodily injury or to cause substantial distress to the victim is stalking and is against the law under [§2709 OF THE PENNSYLVANIA CRIMES CODE](#) (see section 1(d) above).

(b) Groping/unwanted physical conduct?

Striking, shoving, kicking or otherwise touching someone, or attempting or threatening to do the same, is classified as harassment under [§2709\(A\) OF THE PENNSYLVANIA CRIMES CODE](#) (see section 1(a) above).

Repeated harassment with the intent to either make the victim reasonably fear bodily injury or to cause substantial distress to the victim is stalking and is against the law under [§2709 OF THE PENNSYLVANIA CRIMES CODE](#) (see section 1(d) above).

Violent behaviour, if likely to annoy or alarm the public, also qualifies as disorderly conduct under [§5503 OF THE PENNSYLVANIA CRIMES CODE](#) (see section 1(b) above).

(c) Public masturbation?

Public masturbation is prohibited as both open lewdness and indecent exposure under [§5901](#) and [§3127](#), respectively, of the [PENNSYLVANIA CRIMES CODE](#) (see sections 1(c) and 1(d) above).

(d) Public exposure?

Public exposure is prohibited as both open lewdness and indecent exposure under [§5901](#) and [§3127](#), respectively, of the [PENNSYLVANIA CRIMES CODE](#) (see sections 1(c) and 1(d) above).

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

Any instances of harassment should be reported to the local police. In emergencies call **911** and, if possible, go to a safe place such as a police station. Otherwise, go to or contact your nearest police station, or dial **311** (non-emergency police line).

Anonymous tips may be reported to the Philadelphia Police Department via phone to [\(215\) 686-TIPS \(8477\)](tel:(215)686-TIPS(8477)), via text message to short code [\(PPDTIP \(773847\)\)](tel:PPDTIP(773847)), via e-mail to tips@phillypolice.com, or via the department website [🔗](#).

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The police will log the report of a crime and should provide you with a complaint number for further reference. They usually wish to take a statement from you as a basis for the complaint. There is no general right to anonymity and only limited rights to anonymity after a case has gone to Court.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific anti-harassment policies that are sponsored by the City of Philadelphia, and we are not aware of any local initiatives seeking to reduce street harassment in the Philadelphia area.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

Harassment laws in Pennsylvania apply to the entire Commonwealth.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

The **West Philadelphia Campus Community Consortium to Reduce Violent Crimes Against Women** [🔗](#) offers resources for women who have been the victims of violent crimes, including women who are being stalked.

The **Philadelphia Coalition for Victim Advocacy** [🔗](#) offers resources, such as counselling referrals, to victims of crime in the Philadelphia area. They can be reached by e-mail at pcvainfo@pcvainfo.org.

The **Pennsylvania Coalition Against Rape** [🔗](#) is an organization working to prevent sexual violence. The PCAR offers information, referrals, and other resources to victims of sexual violence who call their toll free hotline at [1-888-772-7227](tel:1-888-772-7227).

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described above in section 1, if the offense is classified as a '**SUMMARY OFFENSE**,' the lowest criminal offense under Pennsylvania criminal law, it is generally punishable by a jail sentence of up to 90 days and a fine up to \$300. This punishment may be increased for repeat offenses.

If the offense is classified as a '**MISDEMEANOR**' it will appear as a crime on the offender's criminal record. Third degree misdemeanors are punishable by up to a year in prison, second degree misdemeanors are punishable by up to two years in prison, and first degree misdemeanors are punishable by up to five years in prison.

If the offense is classified as a '**FELONY**' it will appear as a crime on the offender's criminal record. Third degree felonies are punishable by up to seven years in prison, second degree felonies are punishable by up to ten years in prison, and first degree felonies are punishable by up to twenty years in prison.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim's word is against the alleged offender's word. In such cases the principle of "*innocent until proven guilty*" applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

PORTLAND, MAINE

LEGAL CONTACT:

Sean Crain, *DLA Piper LLP (US)*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Although there is currently no law in Maine directly applicable to street harassment, a person may be held both criminally and civilly liable for engaging in conduct that violates the following statutes under Maine law.

(a) Criminal Liability

MAINE CRIMINAL CODE §506-A

- (1) A person is guilty of harassment if, without reasonable cause:
 - (A) The person engages in any course of conduct with the intent to harass, torment or threaten another person:
 - (1) After having been notified, in writing or otherwise, not to engage in such conduct by:
 - (a) Any sheriff, deputy sheriff, constable, police officer or justice of the peace. The notification not to engage in such conduct expires one year from the date of issuance; or
 - (b) A court in a protective order issued under [TITLE 5, SECTION 4654](#) or [4655](#) or [TITLE 19-A, SECTION 4006](#) or [4007](#); or
 - (2) If the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to engage in such conduct by the Commissioner of Corrections, the chief administrative officer of the facility, the correctional administrator for the region or their designees.
 - (B) The person violates paragraph A and, at the time of the harassment, the person has 2 or more prior Maine convictions under this section in which the victim was the same person or a member of that victim's immediate family or for engaging in substantially similar conduct to that contained in this paragraph in another jurisdiction. [SECTION 9-A](#) governs the use of prior convictions when determining a sentence. Violation of this paragraph is a **CLASS C CRIME**.

LEVEL OF SERIOUSNESS OF OFFENSE

- (1) Violation of [PARAGRAPHS A \(1\)-\(2\)](#) is a **CLASS E CRIME** –punishment not to exceed 6 months imprisonment and/or \$1,000 fine.
- (2) Violation of [PARAGRAPH B](#) is a **CLASS C CRIME** – punishment not to exceed 5 years imprisonment and/or \$5,000 fine.

EXAMPLES OF BEHAVIOR CONSTITUTING HARASSMENT UNDER §506-A:

Subsequent to being warned by a state trooper to have no contact with the complainant, defendant was convicted for harassment stemming from an incident when she made an obscene gesture and yelled vulgarities at the present wife of her former boyfriend.⁴⁸

Defendant was convicted for harassment when he called the complainant persistently over the course of three weeks despite the complainant's objections, and subsequent to the complainant seeking a protection from harassment order, the defendant called asking "why she was that upset."⁴⁹

(b) Civil Liability**MAINE REVISED STATUTE TITLE 5, SECTION 4651**

"Harassment" means:

- (1) Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to personal property and that do in fact cause fear, intimidation or damage to personal property; or
- (2) A single act or course of conduct constituting a violation of:
 - » TITLE 5, SECTION 4681 (violations of constitutional rights);
 - » TITLE 17, SECTION 2931 (prohibiting/interfering with constitutional or civil rights); or
 - » TITLE 17-A, SECTIONS 201 (MURDER), 202 (FELONY MURDER), 203 (MANSLAUGHTER), 204 (AIDING OR SOLICITING SUICIDE), 207 (ASSAULT), 208 (AGGRAVATED ASSAULT), 209 (CRIMINAL THREATENING), 210 (TERRORIZING), 210-A (STALKING), 211 (RECKLESS CONDUCT), 253 (GROSS SEXUAL ASSAULT), 301 (KIDNAPPING), 302 (CRIMINAL RESTRAINT), 303 (CRIMINAL RESTRAINT BY PARENT), 506-A (HARASSMENT), 511 (VIOLATION OF PRIVACY), 556 (INCEST), 802 (ARSON), 805 (AGGRAVATED CRIMINAL MISCHIEF) or 806 (CRIMINAL MISCHIEF).

EXAMPLES OF BEHAVIOR CONSTITUTING HARASSMENT UNDER §506-A:

A former wife committed harassment against her former husband when she sent repeated e-mail messages and embarrassing facsimile messages to a machine in a central location of her former husband's office; the court determined that such conduct constituted three or more acts of intimidation directed against her former husband, the messages were sent with the intention of causing her former husband fear or intimidation, and the messages did in fact cause her former husband fear or intimidation.⁵⁰

⁴⁸ *State v. Cropley*, 544 A.2d 302, 303 (Me. 1988).

⁴⁹ *State v. Nastvogel*, 798 A.2d 1114, 1115-17 (Me. 2002).

⁵⁰ *Jefts v. Dennis*, 931 A.2d 1055 (Me. 2007)

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

While verbal harassment is not outlawed specifically, it may be against the law if it meets the above-mentioned statutory requirements of [MAINE CRIMINAL CODE, TITLE 17-A, §506-A](#) or [MAINE REVISED STATUTE TITLE 5, SECTION 4651](#). Depending on the specific conduct, the harasser could be held criminally liable for stalking.

STALKING

For street harassment to constitute stalking, the conduct must conform to the following statutory requirements under [MAINE CRIMINAL CODE, TITLE 17-A, §210-A](#):

(1) A person is guilty of stalking if:

The actor intentionally or knowingly engages in a course of conduct directed at or concerning a specific person that would cause a reasonable person:

- (1) To suffer serious inconvenience or emotional distress;
- (2) To fear bodily injury or to fear bodily injury to a close relation;
- (3) To fear death or to fear the death of a close relation;
- (4) To fear damage or destruction to or tampering with property; or
- (5) To fear injury to or the death of an animal owned by or in the possession and control of that specific person; or

The actor violates paragraph A and has 2 or more prior convictions in this State or another jurisdiction (“another jurisdiction” also includes any Indian tribe.)

(2) Unless the context otherwise indicates, the following terms have the following meanings:

- (a) **“Course of conduct”** means 2 or more acts, including but not limited to acts in which the actor, by any action, method, device or means, directly or indirectly follows, monitors, tracks, observes, surveils, threatens, harasses or communicates to or about a person or interferes with a person’s property. “Course of conduct” also includes, but is not limited to, threats implied by conduct and gaining unauthorized access to personal, medical, financial or other identifying or confidential information.
- (a) **“Close relation”** means a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent, grandparent, any person who regularly resides in the household or who within the prior 6 months regularly resided in the household or any person with a significant personal or professional relationship.
- (b) Deleted. [LAWS 2007, C. 685, § 1](#).
- (a) **“Emotional distress”** means mental or emotional suffering of the person being stalked as evidenced by anxiety, fear, torment or apprehension that may or

may not result in a physical manifestation of emotional distress or a mental health diagnosis.

- (a) **“Serious inconvenience”** means that a person significantly modifies that person’s actions or routines in an attempt to avoid the actor or because of the actor’s course of conduct. “Serious inconvenience” includes, but is not limited to, changing a phone number, changing an electronic mail address, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule or losing time from work or a job.

LEVEL OF SERIOUSNESS OF OFFENSE

Stalking is a **CRIMINAL OFFENSE**. There are several degrees of seriousness, depending on which provision of the statute is violated. Levels of punishment range from a sentence of up to 1 year imprisonment and/or a \$2,000 fine to a sentence of up to 5 years imprisonment and/or a \$5,000 fine.

Example: Defendant was convicted for stalking when the defendant called the complainant persistently over the course of three weeks despite the complainant’s objections, and subsequent to the complainant seeking a protection from harassment order, the defendant called asking “why she was that upset” and continued to place collect calls to the complainant.⁵¹

(b) **Groping/unwanted physical conduct?**

Groping and physical conduct may subject the harasser to criminal liability as follows:

UNLAWFUL SEXUAL TOUCHING

Groping and unwanted physical conduct may also violate **MAINE CRIMINAL CODE, TITLE 17-A, § 260**. Unlawful sexual touching requires that (1) the actor intentionally (2) subjects another person to any touching of the breasts, buttocks, groin, or inner thigh (3) for the purpose of arousing or gratifying sexual desire, and (4) “[t]he other person has not expressly or impliedly acquiesced in the sexual touching.”⁵²

LEVEL OF SERIOUSNESS OF OFFENSE

Depending on the particular conduct, a person found guilty of this offense is subject to a maximum fine of \$1,000 or \$2,000 and/or up to 6 months 1 year imprisonment.

(c) **Public masturbation?**

Public masturbation may constitute indecent conduct pursuant to **MAINE CRIMINAL CODE, TITLE 17-A, §854 1 A-C**.

51 *State v. Nastvogel*, 798 A.2d 1114, 1115-17 (Me. 2002).

52 17-A M.R.S. §§ 251(1)(G), 260(1)(A). *State v. Gantnier*, 55 A.3d 404, 408 (Me. 2012).

INDECENT CONDUCT

- (1) A person is guilty of indecent conduct if:
- (A) In a public place:
 - (1) The actor engages in a sexual act, as defined in [SECTION 251](#);
 - (2) The actor knowingly exposes the actor's genitals under circumstances that in fact are likely to cause affront or alarm;
 - (3) The actor violates subparagraph (1) and the actor has 2 or more prior convictions for any combination of the following: violating this section or [SECTION 256](#) or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction; or
 - (4) The actor violates subparagraph (2) and the actor has 2 or more prior convictions for any combination of the following: violating this section or [SECTION 256](#) or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction;
 - (B) In a private place, the actor exposes the actor's genitals with the intent that the actor be seen from a public place or from another private place;
 - (C) In a private place, the actor exposes the actor's genitals with the intent that the actor be seen by another person in that private place under circumstances that the actor knows are likely to cause affront or alarm.

LEVEL OF SERIOUSNESS OF OFFENSE

Depending on the particular conduct, a person found guilty of this offense is subject to a maximum fine of \$1,000 or \$2,000 and/or imprisonment for up to 6 months or 1 year.

(d) Public exposure?

Public exposure may constitute indecent conduct pursuant to [MAINE CRIMINAL CODE, TITLE 17-A, §854 1 A-C](#).

INDECENT CONDUCT

- (1) A person is guilty of indecent conduct if:
- (A) In a public place:
 - (1) The actor engages in a sexual act, as defined in [SECTION 251](#);
 - (2) The actor knowingly exposes the actor's genitals under circumstances that in fact are likely to cause affront or alarm;
 - (3) The actor violates subparagraph (1) and the actor has 2 or more prior convictions for any combination of the following: violating this section or [SECTION 256](#) or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction; or

- (4) The actor violates subparagraph (2) and the actor has 2 or more prior convictions for any combination of the following: violating this section or [SECTION 256](#) or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction;
- (B) In a private place, the actor exposes the actor's genitals with the intent that the actor be seen from a public place or from another private place;
- (C) In a private place, the actor exposes the actor's genitals with the intent that the actor be seen by another person in that private place under circumstances that the actor knows are likely to cause affront or alarm.

LEVEL OF SERIOUSNESS OF OFFENSE

Depending on the particular conduct, a person found guilty of this offense is subject to a maximum fine of \$1,000 or \$2,000 and/or imprisonment for up to 6 months or 1 year.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

The first step a person should take is to report the harassment to his or her local police department. A person should request that law enforcement issue a notice to the harasser to stop his or her conduct. Assuming the report to local law enforcement has not stopped the harassment, the person being harassed should next file a complaint for a protection from harassment order. A protection from harassment order is a civil court order that protects you from a harasser. You do not need a special relationship with the harasser in order to be eligible to file for protection.

The requirements are set out in Maine's [Guide to Protection from Abuse and Harassment Actions](#) and summarized below⁵³.

(1) Where

Go to the District Court where either the plaintiff or the defendant lives, or in the event the plaintiff has left his/her residence to avoid abuse, go to the District Court where the plaintiff's old or new residence is located.

(2) Cost

There is no fee to file the case if based on abuse, sexual assault or stalking. A fee applies if the case is based on harassment, unless the harassment case involves an allegation of stalking, sexual assault or domestic or dating violence. Please ask the clerk for the current fee amount. If the plaintiff cannot afford the fee, he/she may ask the

⁵³ *A Guide to Protection from Abuse and Harassment Actions*, State of Maine, Judicial Branch. Published by the Administrative Office of the Courts, July 2006. 4th Ed

clerk for the **Motion to Proceed Without Payment of Fees** form. There is no charge for forms or to get copies of papers that are filed in a protection case.

(3) How To File the Complaint and Related Forms

There are two ways you can get and complete the Complaint, which starts a protection action.

The first is to go to the clerk's office in the District Court, and ask the clerk for either a Protection from Abuse Complaint or a Protection from Harassment Complaint. The clerk will provide the plaintiff with the appropriate complaint form, which the plaintiff may complete at the courthouse, the local Domestic Violence project, or anywhere else. The clerk is available to answer questions regarding the form. However, the clerk is not permitted to give legal advice.

The second way is to access court forms through the internet. If you have computer and internet connection, set your web browser to either of the following websites:

State of Main Judicial Branch Court Forms [↗](#)

Pine Tree Legal Assistance Court Forms [↗](#)

If you do not have a computer, go to a local library or other site with a public access computer and ask the librarian to help you get to the above web pages. The computer will ask you a series of questions, and will then generate a completed complaint and other necessary forms which you can then print, sign (in front of a notary public or court clerk) and file with your local court. The plaintiff must also complete a **Service Information Sheet** that provides information about the defendant that can be used to serve the defendant with any pleadings and orders. The plaintiff should return the Service Information Sheet together with the complaint to the clerk.

In the event the complaint is based on abuse, sexual assault or stalking, the plaintiff has minor children, the defendant is the parent of any of plaintiff's minor children, and no child support order already exists, the plaintiff must also complete a **Child Support Affidavit** before the final hearing.

In abuse, sexual assault, and stalking cases, and harassment cases, a party's address and other identifying information can be kept confidential if the party fills out an affidavit for confidential address and phone number stating under oath that disclosure of the information would jeopardize the health, safety or liberty of the party or a child. In that case, the clerk's office will maintain the confidentiality of the contact information and will use it only to contact the party. The court can order the information disclosed only after a hearing, and only if the court decides that disclosure is in the interest of justice. In [a] protection case, confidential or not, the plaintiff must inform the clerk's office of any change of address subsequent to the filing of the complaint.

In addition to (or instead of) filing for an order, if you are being harassed because of your race, colour, religion, sex, ancestry, national origin, disability, or sexual orientation, you

can contact the **Maine Attorney General's office** at (207) 626-8800 ext. 4 to make a complaint under the **Maine Civil Rights Act**.

(4) Orders Available

According to [womenslaw.org](https://www.womenslaw.org) [🔗](#), the following harassment protection orders are available in Maine:

- (1) **Emergency protection from harassment orders** – This type of order could be granted on nights, weekends, or holidays when the court is closed or if there is no judge available in your local district court. An emergency temporary order may be entered if you meet the requirements explained in the next section. The order would be in effect until a hearing is held in the appropriate district court.
- (2) **Temporary protection from harassment orders** – A temporary order can be granted on the day that you file your petition in court. It does not matter whether or not you have notified law enforcement about the harassment. You can only be granted a temporary order without notifying the harasser (known as *ex parte*) if:
 - » the judge believes from the information you provide, that you or your employees may be in immediate and present danger of physical abuse or of extreme emotional distress as a result of the harasser's conduct; **or**
 - » your business property is in immediate and present danger of suffering substantial damage as a result of the harasser's actions; **and**
 - » you or the court have made reasonable efforts to give notice to the harasser or the harasser's attorney that you are seeking a temporary order – but only if it is reasonable to require this based on the circumstances of your case.

If a temporary order is issued without notice to the harasser it will take effect as soon as it is served on the harasser. The order will stay in effect until the final hearing and it can be extended if a hearing is postponed.

NOTE: Even if the judge does not grant you a temporary *ex parte* order, the case can still be scheduled for a final hearing where you can offer more evidence to show why you need the order.

NOTE: A harasser may ask the court to terminate (vacate) or modify (change) the temporary order and must only give you 2 days' notice. The court may also have the final hearing at the same time it hears the harasser's request to terminate or modify the temporary order.

- (3) **Final protection from harassment orders** – To get a final order, you must attend the final hearing that was set by the court and listed on your temporary protection from harassment order. A final protection from harassment order can be issued only after a court hearing in which you and the harasser both have a chance to present evidence, testimony, and witnesses and the judge rules in your favor **or** you can get an order without having a trial if the harasser consents to having an order against

him/her – this is known as an **order by agreement** or a **consent order**. **Protection from harassment orders** can last up to one year. However, you may be able to have it extended.

WomensLaw.org, available here [🔗](#)⁵⁴

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The person reporting the harassment should be aware of the process that takes place before and after the filing of the complaint. The process is set out in Maine’s **Guide to Protection from Abuse and Harassment Actions** and summarized below.⁵⁵

(1) Obtain Law Enforcement Notice:

Before filing a court complaint seeking a protection from harassment order, many plaintiffs must show that law enforcement has already issued a notice to the defendant to stop harassing the plaintiff. (The statute giving law enforcement the power to issue these notices is [SECTION 506-A OF TITLE 17-A](#)).

To prove that this requirement is met, the plaintiff must file a copy of the law enforcement notice with the **protection from harassment 6 complaint**.

Two exceptions exist. The plaintiff is not required to file a copy of a law enforcement cease-harassment notice if:

- (1) the plaintiff can show good cause for not seeking or obtaining such a notice from law enforcement; or
- (2) the plaintiff is claiming that the defendant harassed plaintiff by engaging in a single act or course of conduct that qualifies as a violation of one of the criminal statutes mentioned in the harassment definition (these include: violation of constitutional rights, murder, felony murder, manslaughter, aiding or soliciting suicide, assault, aggravated assault, criminal threatening, terrorizing, stalking, reckless conduct, gross sexual assault, kidnapping, criminal restraint, criminal restraint by parent, harassment as defined in [17-AM.R.S. § 506-A](#), violation of privacy, incest, arson, aggravated criminal mischief, or criminal mischief).

(2) Ensure Service of the Complaint and Related Forms.

Generally, the court will arrange service of a temporary order on an in-state defendant. To speed up service, however, the court may ask the plaintiff to take the court papers to the police department or sheriff’s office. The plaintiff should call the sheriff’s department or police department to find out when the papers are served on the defendant.

⁵⁴ Last visited, November 13, 2013.

⁵⁵ *A Guide to Protection from Abuse and Harassment Actions*, State of Maine, Judicial Branch. Published by the Administrative Office of the Courts, July 2006. 4th Ed.

If the defendant resides outside the state of Maine, you should consult with the clerk of courts to assist in the arrangement for service of the complaint and related forms on the defendant in the State where the defendant resides.

If no temporary order is issued or if the defendant resides outside of the state of Maine, you should consult with the clerk of courts to assist in the arrangement for service of the complaint and related forms on the defendant.

(3) Attend The Final Hearing.

The plaintiff must attend the final hearing. All final protection hearings are public. The plaintiff is responsible to remember the court date set for the final hearing. Even if the defendant is not yet served, if the plaintiff does not appear on the hearing date, the case is likely to be dismissed. In a genuine emergency, the plaintiff should inform the court as soon as possible and may ask for a continuance (postponement). The judge will decide whether to continue the hearing.

At the hearing, the plaintiff has the burden to prove that the defendant abused, sexually assaulted, stalked or harassed the plaintiff or any children for whom the plaintiff is responsible. A plaintiff with personal knowledge usually must testify at the hearing. The plaintiff may bring other witnesses to support his/her case, may subpoena witnesses, and may hire a lawyer if he/she wishes. The defendant has a right to be at the hearing and must have notice of the date and time of the hearing. The defendant has a right to have a lawyer, and may testify and bring witnesses to testify in his/her behalf.

At the hearing, the judge will first ask the plaintiff to present evidence and witnesses to support his/her case. The judge will rule on any objections. Then the defendant will have an opportunity to respond and to present witnesses. Both parties have the right to cross-examine each other or any witnesses, but the judge will determine how it is done. After hearing all the evidence and all the witnesses, the judge will make a decision on all issues.

At the final hearing, the plaintiff should be prepared to justify any relief he/she may have requested in the protection complaint.

(4) Consider an Order By Consent Without Hearing.

At the outset of the hearing, the judge may ask each party whether the party is willing to consider a protection order by consent or agreement, instead of having a contested hearing. Consent orders can include all the protection that an order issued after a contested hearing would provide. Violation of a consent order can be prosecuted, just as in the case of an order issued after hearing.

However, before giving up the right to a hearing, a plaintiff should assure that a consent order is adequate in terms of protection and other relief. Also, consent orders are often issued without any finding of whether the defendant committed abuse, sexual assault, stalking or harassment.

Normally, consent orders are worked out by the judge speaking to the parties, or through the use of go-betweens (often lawyers or domestic violence advocates). There should not be direct discussion or contact between the parties, either before coming to court or at the court, especially if a temporary order prohibiting contact is in effect.

(5) If a Final Protection Order is Issued.

A final protection order may last up to two years if issued in a protection from abuse case, and one year if issued in a protection from harassment case. Both the plaintiff and the defendant should read any final order carefully. Any protection order remains in effect until it expires, unless it is terminated or changed by the court before it expires. The only way a protection order can be changed is by a judge (or a family law magistrate in cases involving children).

No one else, including the plaintiff, has authority to change the order or permit the defendant to violate the order. For example, if the defendant has been ordered not to go to the plaintiff's house, the defendant violates the order if he/she goes to the plaintiff's house, even if the plaintiff has invited him/her.

REMEMBER: Only the court can change the order. The order will state specifically what the defendant is prohibited from doing and what the defendant is required to do. If the defendant violates the order, the plaintiff should call the police and inform the police regarding the terms of the protection order. It is a crime for the defendant to violate certain portions of the protection order. The plaintiff should keep a copy of the order with him/her at all times.

(6) If Plaintiff Seeks to Have the Order Modified or Terminated.

If the plaintiff wants the order changed or terminated, the plaintiff must file with the court clerk a written motion to modify or terminate. A protection order may be modified if the plaintiff can show a substantial change in circumstances since the entry of the final order. The clerk will give the plaintiff a time and date for the hearing on the plaintiff's request to modify or terminate. The defendant must be notified as to any such motion and has a right to be present. The clerk will arrange for service of the written motion and notice of hearing on the defendant in all cases except harassment cases that do not involve sexual assault or stalking. Even if the clerk arranges service, the plaintiff may be asked to bring the paperwork to the sheriff's office to speed up the process. The hearing on plaintiff's motion to modify or terminate is governed by the same procedures set forth in the final hearing.

(7) If Plaintiff Wants the Protection Order Extended.

If the plaintiff believes that extension of the order will be necessary, the plaintiff must file with the court a request to extend the protection period. To avoid the risk of a gap in protection, the motion should be filed 30 days before the expiration date.

The plaintiff should go back to the same court that issued the order and ask for the form called **Motion to Extend**. The plaintiff should complete that form, give it to the clerk, and complete another Service Information Sheet. The clerk will set a hearing date and the plaintiff must be present at that hearing. The defendant must be notified of the hearing date, and the defendant has a right to be present at the hearing.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

There are no specific harassment policies in place that address street harassment. However, the City of Portland has instituted an official **Policy Against Harassment** applicable to its employees in all work-related settings, activities and property. Specifically, the policy applies to conduct between all employees, including in the case of sexual harassment, male/female, female/male and members of the same sex.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

Yes, street harassment is an issue governed by state law. A person's success in obtaining relief for street harassment will vary according to whether there are applicable statutes, ordinances or other laws in the state that can be applied to the specific conduct at issue.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Across most U.S. jurisdictions, including Maine, there are no harassment laws specifically designed to apply to street harassment. For this reason, complainants will have to work with the existing laws detailed above to successfully bring actions against their harassers. Moreover, many of the statutes discussed assume that the plaintiff can identify his or her harasser. If the complainant is unable to identify the harasser, it will be nearly impossible to obtain any sort of relief.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

A person against whom a harassment complaint has been filed may face the following consequences:

If the offense is classified as [criminal harassment](#), levels of punishment range from a sentence of up to 6 months imprisonment and/or a \$1,000 fine to a sentence of up to 5 years imprisonment and/or a \$5,000 fine.

If the offense is classified as [stalking](#), levels of punishment range from a sentence of up to 1 year imprisonment and/or a \$2,000 fine to a sentence of up to 5 years imprisonment and/or a \$5,000 fine.

If the offense is classified as unlawful [sexual touching](#), levels of punishment range from a sentence of up to 6 months imprisonment and/or a \$1000 fine to a sentence of up to 1 year imprisonment and/or a \$2000 fine.

If the offense is classified as [indecent conduct](#), levels of punishment range from a sentence of up to 6 months imprisonment and/or a \$1000 fine to a sentence of up to 1 year imprisonment and/or a \$2000 fine.

In harassment cases, the person against whom a complaint is filed may also be subject to a **Protection from Harassment Order**. Specifically, this order may:

- (1) Prohibit or limit the defendant from having contact, direct or indirect, with the plaintiff and any children on whose behalf the complaint has been brought. Direct contact means any contact by any means (including but not limited to in person contact, telephone calls, letters and notes, e-mail messages, etc.) directly by the Defendant to the Plaintiff. Indirect contact means any effort by the defendant to contact the plaintiff through other people (such as having them give messages or forward letters or email to the plaintiff);
- (2) Order the defendant to refrain from threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff.
- (3) Prohibit the defendant from entering the plaintiff's residence;
- (4) Prohibit the defendant from following the plaintiff, or being at or in the vicinity of the plaintiff's home, school, business, or place of employment, without reasonable cause;
- (5) Order the defendant not to take, damage, or destroy the plaintiff's property;
- (6) Order payment of monetary compensation to the plaintiff for losses suffered as a direct result of abuse or harassment;
- (7) Order one or both parties to pay court costs or reasonable attorney's fees.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it

is the victim's word against the alleged offender's word. In such cases the principle of *"innocent until proven guilty"* applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

VIRGINIA

LEGAL CONTACT:

Maia Sevilla-Sharon, *DLA Piper LLP (US)*

1 IS STREET HARASSMENT AGAINST THE LAW? WHAT KIND OF BEHAVIOUR IS ILLEGAL?

Some forms of street harassment are unlawful in Virginia.

1 ANTI-STALKING LAW, VA. CODE § 18.2-60.3.

In Virginia, stalking is a crime defined as repeated conduct which places a person, or his or her family, in reasonable fear of death, sexual assault, or bodily injury.

If you are followed more than once by the same individual and feel you might be physically harmed, you may report this harassment as a stalking.

A first conviction carries a penalty of up to one year in jail and a \$2,500 fine (**CLASS 1 MISDEMEANOR**). The penalty for a subsequent conviction is up to five years in prison and a \$2,500 fine (**CLASS 6 FELONY**).

Upon conviction for stalking, the court will issue an order prohibiting contact between the defendant and the victim or the victim's family or household member (**18.2-60.3D**).

2 ASSAULT, VA. CODE § 18.2-57.

Under Virginia law, the crime of assault is defined as:

- performing an overt (physical) act intended to cause physical harm while having the present ability to inflict harm, or
- performing an overt act intended to place the victim in fear of bodily harm and actually placing the victim in reasonable fear of harm.

For example, if the person runs toward you while yelling that he or she is going to kill you while holding an object that looks like a weapon, and you reasonably believe it is a weapon, that action qualifies as an assault, even if you are not touched.

Because assault requires an overt act, threatening or insulting words alone are not sufficient to constitute an assault. However, there is no requirement that the assailant physically touch the victim.

Assault is a **CLASS 1 MISDEMEANOR**, punishable by up to one year in jail, a \$2,500 fine, or both.

3 INDECENT EXPOSURE, VA. CODE § 18.2-387.

Under Virginia law, *“Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where*

others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor."

The offense carries a penalty of no more than one year in jail and a \$2,500 fine.

If a person exposes himself or herself to you in public, that person has engaged in indecent exposure and can be reported.

4 OBSCENE SEXUAL DISPLAY, VA. CODE § 18.2-387.1.

Under Virginia law, *"any person who, while in any public place where others are present, intending that he be seen by others, intentionally and obscenely engages in actual or explicitly simulated acts of masturbation,"* is guilty of a **CLASS 1 MISDEMEANOR**.

The offense carries a penalty of no more than one year in jail and a \$2,500 fine.

If a person masturbates in front of you in public, that person has engaged in obscene sexual display and can be reported.

5 DISORDERLY CONDUCT IN PUBLIC PLACES, VA. CODE § 18.2-415.

Under Virginia law, a person may be charged with disorderly conduct if he or she intentionally or recklessly causes public inconvenience, annoyance, or alarm in a public place. Conduct that has a tendency to cause a violent reaction by the person at whom it is directed is also classified as disorderly conduct.

Disorderly conduct is a **CLASS 1 MISDEMEANOR**, punishable by up to 12 months in jail, a fine of up to \$2,500, or both.

For example, shouting profanities out of a car window in front of a person's home or workplace over an extended period of time could qualify as disorderly conduct.

6 PROFANE SWEARING AND INTOXICATION IN PUBLIC, VA. CODE § 18.2-388.

Under Virginia law, if any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a Class 4 misdemeanor. The penalty is no more than \$250.

If you are being harassed by a visibly drunk person, or if he/she is using profanity while harassing you, you may report that person.

7 USING ABUSIVE LANGUAGE TO ANOTHER, VA. CODE § 18.2-416.

Under Virginia law, *"if any person shall, in the presence or hearing of another, curse or abuse such other person, or use any violent abusive language to such person concerning himself or any of his relations, or otherwise use such language, under circumstances reasonably calculated to provoke a breach of the peace, he shall be guilty of a Class 3 misdemeanor."* The penalty is no more than \$500.

8 SLANDER AND LIBEL, VA. CODE § 18.2-417.

Under Virginia law, *“any person who shall falsely utter and speak, or falsely write and publish, of and concerning any female of chaste character, any words derogatory of such female’s character for virtue and chastity, or imputing to such female acts not virtuous and chaste, or who shall falsely utter and speak, or falsely write and publish, of and concerning another person, any words which from their usual construction and common acceptance are construed as insults and tend to violence and breach of the peace or shall use grossly insulting language to any female of good character or reputation, shall be guilty of a Class 3 misdemeanor.”* The penalty is no more than \$500.”

For example, if a person insults you by making statements about your sexuality, that person may be charged with slander and libel.

9 SOLICITING PROSTITUTION, VA. CODE § 18.2-346.

Under Virginia law, *“any person who offers money or its equivalent to another for the purpose of engaging in sexual acts ... is guilty of solicitation of prostitution.”*

Soliciting prostitution is a class 1 misdemeanor, punishable by up to 1 year in jail, a fine of up to \$2,500, or both.

If a person solicits sexual activity or offers you money or another form of remuneration in exchange for sex, they may be charged with soliciting prostitution.

10 SEXUAL BATTERY, VA. CODE § 18.2-67.4.

Under Virginia law, it is illegal for a person to sexually abuse someone by force, threat, intimidation, or ruse. **“Sexual abuse”** is defined as an act of touching a person’s intimate parts or touching the material directly covering such intimate parts or forcing someone to touch the harasser’s intimate parts. To qualify as sexual abuse, the act must be committed with the intent to sexually molest, arouse, or gratify any person.

Sexual battery is a **CLASS 1 MISDEMEANOR** punishable by up to 1 year in jail, a fine of up to \$2,500, or both. **Aggravated sexual battery** (which includes sexual battery of a minor under 13 or a person with mental incapacity) is a **FELONY** punishable by up to 20 years in jail and by a fine of up to \$100,000.

If you experience sexual abuse as defined above, you can report the harasser.

11 OBSTRUCTING FREE PASSAGE OF OTHERS, VA. CODE § 18.2-404.

Under Virginia law, any person who in a public place or private property that is open to the public *“unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such place or property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employee of such owner or lessee or by a duly authorized law enforcement officer shall be guilty of a Class 1 misdemeanor.”*

For example, if someone is blocking the entrance to a restaurant and only allowing certain types of people in, it will be a violation if they continue doing so after being told to stop by someone in authority.

The offense is punishable by up to 1 year in jail, a fine of up to \$2,500, or both.

2 ARE ANY OF THE FOLLOWING BEHAVIOURS OUTLAWED SPECIFICALLY:

(a) Verbal harassment?

Yes. See laws on abusive language, profanity, and slander, above.

(b) Gropping/unwanted physical conduct?

Yes. See laws on sexual battery and assault, above.

(c) Public masturbation?

Yes. See laws on indecent exposure and obscene sexual display, above.

(d) Public exposure?

Yes. See laws on indecent exposure and obscene sexual display, above.

3 HOW SHOULD HARASSMENT BE REPORTED?

e.g. to local police, specific hotlines or other dedicated anti-harassment resources

In case of emergency, call [911](#) and go to a safe place such as a police station.

Virginia Crime Victim Assistance Line [1-888-887-3418](#)

Virginia Family Violence and Sexual Assault Hotline [1-800-838-8238](#).

The incident can be reported to the local police department or the other contacts listed below.

Richmond

Police Department [🔗](#)

Non-emergency line: [\(804\)646-5100](#)

Richmond Department of Justice Services

[730 E. Broad Street, 8th Floor](#)

[Richmond, VA 23219](#)

Phone: [\(804\)646-5987](#)

Fredericksburg

Police Department [🔗](#)


Non-emergency line: [540-373-3122](#)

Fredericksburg Commonwealth's Attorney

601 Caroline St. Suite 600
Fredericksburg, VA 22401
Phone: 540-372-1040

4 WHAT KIND OF PROCESS CAN THE PERSON REPORTING EXPECT?

e.g. filling out a report, will it be a permanent record? What kind of information they might need to share, is there a right to anonymity? etc

The victim may complete a police report and may also apply for an order of protection against the harasser. See [VA. CODE §16.1-253.4](#) .

If the victim wishes to stay anonymous, he/she should contact one of the non-emergency hotlines outlined above for assistance and support.

It would be necessary to share detailed information about the incident in order to prosecute the harasser.

5 ARE THERE ANY SPECIFIC HARASSMENT POLICIES THAT HAVE BEEN PUT IN PLACE?

e.g. specific fines for harassment, women-only carriages etc

In addition to the laws and resources mentioned previously, many educational institutions have implemented anti-harassment policies and have established procedures for reporting such offenses. For more information, you may visit the institution's website or contact it directly.

6 DO HARASSMENT LAWS VARY SIGNIFICANTLY IN DIFFERENT STATES/CITIES?

No, they apply equally across the Commonwealth of Virginia.

7 IS THERE ANYTHING ELSE HOLLABACK! USERS REALLY NEED TO KNOW ABOUT HARASSMENT LAWS IN THIS COUNTRY?

Nothing to add.

8 IF I MAKE A COMPLAINT, WHAT IS LIKELY TO HAPPEN TO THE PERSON I COMPLAIN ABOUT?

The consequences a person subject to a complaint for harassment may face depends on the type and seriousness of the act itself.

As described above in section 1, if the offense is classified as a ‘**MISDEMEANOR**’ it will appear as a crime on the offender’s criminal record. There are four classes of misdemeanors in Virginia. The penalties are as follows:

- (1) For **CLASS 1 MISDEMEANORS**, confinement in jail for up to twelve months or a fine of up to \$2,500, or both.
- (2) For **CLASS 2 MISDEMEANORS**, confinement in jail for up to six months or a fine of up to \$1,000, or both.
- (3) For **CLASS 3 MISDEMEANORS**, maximum fine of \$500.
- (4) For **CLASS 4 MISDEMEANORS**, maximum fine of \$250.

If the offense is classified as a ‘**FELONY**’ it will appear as a crime on the offender’s criminal record. There are six classes of felonies in Virginia. The penalties are as follows:

- (5) For **CLASS 1 FELONIES**, death, or imprisonment for life and a fine of up to \$100,000.
- (6) For **CLASS 2 FELONIES**, imprisonment for life or a minimum of 20 years and a fine of up to \$100,000.
- (7) For **CLASS 3 FELONIES**, imprisonment for 5 to 20 years and a fine of up to \$100,000.
- (8) For **CLASS 4 FELONIES**, imprisonment for 2 to 10 years and a fine of up to \$100,000.
- (9) For **CLASS 5 FELONIES**, imprisonment for 1 to 10 years or jail for up to 12 months, and a fine of up to \$2,500, or both.
- (10) For **CLASS 6 FELONIES**, imprisonment for 1 to 5 years or jail for up to 12 months, and a fine of up to \$2,500, or both.

In practice, whether a person is actually punished (fined or imprisoned) for a street harassment offense depends on many factors, including the strength of the evidence, the severity of the crime and the resources that police and prosecutors have available at any time to follow up on a complaint.

One of the big challenges may be that street harassment typically happens without the presence of a third person who can be a witness or that the victim is not able to identify the person who committed the crime. Therefore, if it comes to a complaint or if the victim files charges, it becomes difficult to prove the details. A situation arises where it is the victim’s word is against the alleged offender’s word. In such cases the principle of “*innocent until proven guilty*” applies, meaning a defendant may not be convicted by the court when doubts about his or her guilt remain.

Reporting a possible crime promptly and having evidence (photos, names of witnesses) may increase the chances of a prosecution occurring and of it resulting in a conviction.

FRONT COVER PHOTO A woman walks past a building decorated with a pair of eyes in the Crimean city of Sevastopol February 29, 2012. REUTERS/Stringer



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FOUNDATION**

Thomson Reuters Foundation
30 South Colonnade
London E14 5EP
United Kingdom