

HR, management owed harassed detective more than encouragement

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In our civil justice system, sometimes only a jury can answer whether what a company did to protect an employee from coworkers' unlawful harassment was enough. In a recent case involving the Surprise Police Department, the jury's verdict was resounding: Encouraging words are not enough to remedy a hostile work environment.

Promotion sparks problems

Alicia Peterson, a decorated marine, worked as a detective for the Surprise Police Department from 2005 to 2010. While she was on military leave in 2010, the police department announced an opening for a sergeant position. Letters of interest for the job were due before she returned from leave, so she missed the deadline. The test for the job was scheduled to be administered the day she returned from leave.

Peterson requested and was granted permission to take the test on her return date. Based on the results, she ranked first and was in line for the promotion. That's when problems with her coworkers started.

Peterson testified that male colleagues who took the test protested that she was allowed to take the exam and claimed that she was allowed to take it only because a female lieutenant was in charge of the promotion process. Other incidents in what she called a pattern of harassment based on her sex and military service included:

- Reports that a male officer stated he could not believe he was beat out "by a (expletive) female";
- A series of insulting posts (many of which criticized Peterson's experience as a marine) on a website administered by a Surprise police officer and his wife; and
- Most seriously, a situation in which Peterson called for backup three times and no one came.

In addition, a printout of some of the website comments was left on Peterson's desk, including an anonymous comment: "You call yourself a marine? I wish you were back in my old unit[.] I will take you out back and introduce you to my Danner boot."

Complaints draw 'support'

Peterson testified that she complained about the harassment to at least five people in leadership roles, including her direct supervisor. She also complained to HR representatives at least three times.

Everyone she complained to told her the police department was on her side. According to Peterson, her superiors told her not to worry about the harassment and that the department would support her. However, no one was disciplined for the harassment.

Peterson met with then-interim Chief Mark Schott, now the city's HR director, about her complaints and submitted a letter of resignation to him. Schott fired off a letter to the department stating that other officers had created a hostile work environment for Peterson and that the department had decided not to promote anyone to sergeant. Peterson testified that the harassment got worse after Schott's letter during the last days of her employment.

Verdict: management failure

A Maricopa County jury decided the case earlier this year, finding that the police department owed Peterson \$375,000 for not taking effective action to address her complaints of harassment. To the jury, it did not matter that her complaints were about rumors and third-party information. Also, it did not matter that some of the offensive comments were posted on a website the department did not control. It did not matter that Peterson's peers, not her supervisors, made the offensive comments about her military service.

The jury expected the department's managers and HR staff to do more to protect Peterson from coworkers'

abuse than simply telling her they supported her. The jury expected the department to conduct an investigation, discipline the employees who committed the harassment, and show support for Peterson in deed as well as word.

As hard as it is to accomplish—and as disruptive as it may be to business—Arizona juries expect employers to fix harassment when it is brought to their attention. Arizona employers must be mindful of the high standard to which they will be held.

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