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# LEAGUE OF CALIFORNIA CITIES 2018 ANNUAL CONFERENCE

## It Can Happen to #YouToo: Harassment Claims Against City Officials

9/13/2018

*PRESENTED BY:*

J. Scott Tiedemann & Tammy  
Letourneau



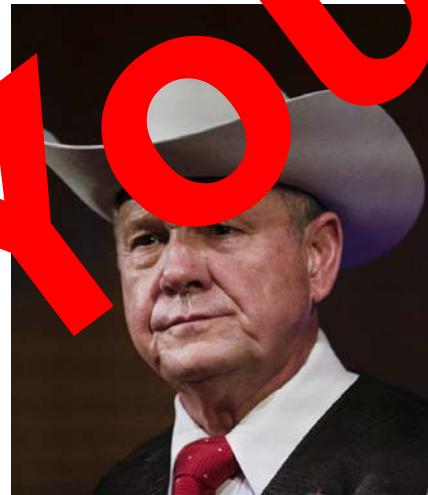
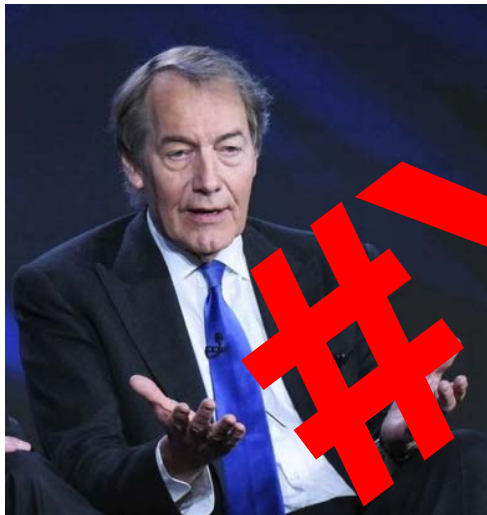
**It Can Happen to #YouToo:  
Harassment Claims Against  
City Officials**  
League of California Cities |  
September 13, 2018

**Presented By:  
J. Scott Tiedemann & Tamara Letourneau**

# Agenda

- Initial Response to Harassment Complaint
- Preparing for an Investigation
- Understanding the Investigative Process
- Taking Action after Investigation
- Preventing Harassment

# Unlawful Harassment Unfortunately Still Takes Place....





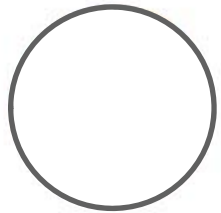
# Case Study: City of Glenn

# Cast of Characters

- Assistant City Manager: Tammy Letourneau
- Subject: Cameron Ganz, Council Member
- Complainant: Randi Cooper, Assistant
- Co-Worker/Facebook Friend: Alex Lee
- Mayor: Morgan Garcia
- Outside Legal Counsel: Scott Tiedemann



Search



**Randi Cooper**



10 hrs ·

It is outrageous that Cameron Ganz is  
“standing up” for women’s rights...  
He sexually assaulted me and countless  
women!!! [#MeToo](#)



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# City Receives #MeToo Complaint

- Tammy is notified by Alex about a controversial [#MeToo](#) Facebook post by his co-worker, Randi, with whom Alex is Facebook friends.
- Randi brings an attorney to her interview and files a formal complaint.





# What Do We Do First?

# What Do We Do First?

## Suggested Notification Order

- City Attorney/Legal Counsel
- Law Enforcement
- Mayor
- Legislative Body
- Media Relations Specialist
- Subject

# What Do We Do First?

## Notifications

1. City Attorney/Legal Counsel
2. Law Enforcement
  - Coordinate criminal & administrative investigation
3. Mayor

# What Do We Do First?

## Notifications Contd.

### 4. Legislative Body

- Is closed session possible?
- Pending Litigation Exemption
- Ensuring Subject is not prematurely notified
- Getting authority to conduct investigation

# What Do We Do First?

## Notifications Contd.

### 5. Media Relations Specialist

- Anticipate publicity of allegation
- Anticipate blind-siding media tactics

### 6. Subject

- Avoids retaliation
- Aids management of bad press



# How to Prepare for Investigation?

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## Investigative Duties

- Legal duty to conduct investigation
  - Regardless of subject
  - Regardless of complainant's cooperation
- Authority to conduct investigation
  - Subject attendance?
  - Government Code
  - Political Reform Act
  - Common Law

# How to Prepare for Investigation?

## Retaining the Investigator

- Attorney Investigator
  - Attorney-client privilege
  - Work-product doctrine
- Private Investigator
  - Cost efficient
- Appointing/Hiring Investigator
  - City Manager or Legislative Body?





# What is the Investigative Process?

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## Investigative Process

- Coordinates with criminal investigation
- Gathering facts
  - Documentary and physical evidence
  - Interviews (Multiple)
- Evaluating facts
- Reporting
- Rules applicable to investigation

# What is the Investigative Process?

## **DFEH Workplace Harassment Guide**

- Basic Steps Required to Conduct Fair Investigation
  - Interviews: complainant, accused, witnesses, other fact gathering
- Confidentiality: Cannot Promise or Require Complete Confidentiality
- Promptly Start & Conclude Investigation Balanced by Fairness to Parties & Need to be Thorough
- Type of Questioning
  - Open-ended; No interrogation/cross-examination
- Making Credibility Determinations- Nine Credibility Factors
- Burden of Proof
- Documentation of Witness Interviews, Investigation Steps and Findings
- Reach a Reasonable & Fair Conclusion Based on Evidence Collected

# What is the Investigative Process?

## Managing Bad Press and Confidentiality

- Balance between:
  - Confidentiality and keeping Complainant informed
- Anticipate Open Comments Section at Council Meetings
- Public Records Act Requests
  - Exemptions & privileges



# What Happens After Investigation?

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## Corrective Actions

- Remedial Measures
  - Making Complainant whole
  - Training of supervisors
  - Revise policies to address the misconduct
- Protect Against Retaliation

# What Happens After Investigation?

## Disciplinary Process

- Discipline of elected officials is Limited:
  - AB1661: Elected officials required to receive harassment prevention training and education
  - Formal motion of censure



# How to Prevent Harassment?



# Prevention

## Training

- AB 1825 – Supervisors
  - Recommend providing to all employees
- AB 1661 – Local Agency Officials
  - Training under AB 1825 meets requirement
- Implement/Update Prevention Policy

# What Happens After Investigation?

## Policing

- Executives and Council Members are the first line of defense:
  - Report All Complaints/Potential Complaints Immediately
  - Take All Complaints/Potential Complaints Seriously
  - Monitor the Workplace
  - Be a Good Role Model and Create Good Role Models

# Conclusion (T.R.U.S.T)

## Conclusion

- Trust
  - Your staff
  - The process
- Recognize the Rules
  - Follow the administrative procedures
  - Follow the DFEH Guidelines

# Conclusion (T.R.U.S.T)

## Conclusion Contd.

- Understand
  - The need to maintain confidentiality
  - The pressures of an investigation
  - The complexity of the investigative process
- Speak in Solidarity
  - Speak through City's representative
- Troubleshoot any Training
  - Train and police your city
  - Revise policies to address the misconduct

# Thank You!

## **J. Scott Tiedemann**

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