

## **Exclusive: The culture that allowed Durham to thrive**

Dave Boucher and Joel Ebert, dboucher@tennessean.com; jebert@tennessean.com 8:44 a.m. CDT July 18, 2016

Rep. Jeremy Durham used his power to sexually harass women and was enabled by a Capitol Hill culture that involves deals over drinks, late-night meetings and a good-old-boy network, an investigation and other sources said.

Speaker Beth Harwell says nothing could have stopped Durham, who used his nearly five years in elected office to methodically harass or sexually take advantage of at least 22 women.

"I don't think anything could have avoided what happened. He violated our current policy, and I think he would violate any policy," Harwell told reporters last week.

Many lawmakers, staffers and lobbyists knew about his predatory misbehavior for years, but didn't speak up to stop him, according to the findings of an attorney general's investigation.

Durham, 32, used his power to go "fishing" for women, the report said. He has been married since 2011 and was elected in 2012.

In one case, he had sex with a 20-year-old college student twice in his legislative office and once in his home.

Even though Lt. Gov. Ron Ramsey said similar behavior like this wouldn't have been allowed to fester in the Senate, it's a culture that's not new in the legislature under Republican or Democratic leadership, or one that's unique to Tennessee.

It's a culture that emphasizes deals between lawmakers, lobbyists and legislative staff over alcohol, lots of late nights and loyalty to a fault.

It's a culture where the House and Senate ethics committees haven't met for a combined 15 years and where legislative affairs are not uncommon.

It's also a culture where many female lobbyists, legislative staffers and lawmakers expect to have to fend off sexual advances by some men at the statehouse.

"As legislative clerk Jane Doe #12 explained, when she told Rep. Durham that his requests for drinks with her in 2013 were inappropriate because he was married and she was engaged, she said his response was, 'Welcome to Capitol Hill,'" states the attorney general's recent investigation detailing Durham's misconduct.

After The Tennessean published an investigation in January detailing Durham's late night inappropriate text messages to three women, he resigned his leadership position and removed himself from the Republican caucus. Harwell, Gov. Bill Haslam and others called on him to resign his seat. And Harwell convened a committee to make recommendations to toughen the legislature's sexual harassment policy.

Several lobbyists and a lawmaker who spoke with The Tennessean said they agree Durham's harassment and overt sexual advances are not typical, and one praised Harwell's actions. But it will take more than a policy change to improve the culture at the statehouse

They think speaking up about harassment or any other problem is still viewed as causing trouble. There is a fear of intimidation and retribution. All requested anonymity from The Tennessean to speak candidly about their experiences for this story.

"Is it fair to say that it's a widespread culture problem? I don't think it's necessarily fair to say that. At the same time, you can't say either that everything is going to be fine now that Jeremy's gone," said a male lobbyist.

'There is still a level of frat boy mentality'

Booze and sex are not new in Tennessee politics, said a successful longtime female lobbyist. But the actions of Durham surprised her.

"I think there is definitely a level of sexism and there is sometimes adults who make dumb decisions and do things they might not want to have public. What I don't think is part of the culture is the predatory nature of what was going on with Jeremy Durham. That was a foreign, to me, form of harassment," the lobbyist said.

While Durham's "predatory" acts may have been uncommon, the repeated references to intoxication or drinking throughout the report echo a history of partying and sexual misconduct by Tennessee lawmakers.

After former Nashville Democrat Rep. Rob Briley was arrested for a DUI, evading police and other charges in 2007, it was revealed that he was having an affair with a lobbyist. In 2009, former state Sen. Paul Stanley had an affair with an intern, whose boyfriend later tried to blackmail the Germantown Republican. In 2009, then-Rep. Brian Kelsey accused former House Speaker Kent Williams of engaging in inappropriate conduct toward Rep. Susan Lynn, spurring the last meeting of the House Ethics Committee. Rep. Curry Todd, a former police officer, was arrested in Nashville in 2011 for DUI and having a gun while intoxicated.

Stanley was the only lawmaker to resign. Briley chose not to run again, while Todd lost his leadership position.

There was definitely partying during the reign of then-Speaker Jimmy Naifeh, who served as speaker from 1991 until 2009, said a man who previously worked at the statehouse.

"But Naifeh had control. If there were problems with an individual member, he f---ing told them to stop or he was going to end them," the man said.

Ramsey, who called on Stanley to resign in the wake of his scandal, has frequently blasted Durham and his actions. On Thursday he said the Franklin Republican was a lone actor and not part of a larger culture where sexual harassment is tolerated.

"It's a good culture in the sense that it's not reoccurring, but a bad culture in the fact that (lawmakers) should have turned him in," Ramsey said.

Ramsey's statement downplays other sexual harassment that could be happening at the Capitol, said the man who previously worked at the statehouse.

"No lobbyist with a brain, after Ron Ramsey says there's no culture problem, is going to come out and say there is one. That's the talking point now once they hear the lieutenant governor say that," the man said.

Women started reporting sexual misconduct from Durham as far back as 2012, according to the report. The fact it took years for any accountability to happen shows a problem, said the longtime female lobbyist.

"I think that this went on for so long speaks to a culture that maybe I'm not aware of. It went on for way too long. I knew about Jeremy Durham three years ago. So did everybody else. Everybody knew the Pants Candy story. Everybody!" the lobbyist said, referencing a part of the attorney general's report that states Durham offered a lobbyist candy from his pants pocket in a sexually explicit way.

'They have the trump card'

Many of the women interviewed by the attorney general said their specific experiences with Durham were not normal compared with their interactions with other lawmakers. But when they spoke generally, they talked about the culture of the statehouse that gives lawmakers the "trump card," as one female lobbyist told investigators.

"If you piss them off, they are the ones with the vote; they have the trump card. They can make or break you," she said in the report.

That leaves women at the legislature who have been sexually harassed in a precarious position: an already intimate and potentially embarrassing situation is made more fraught by concerns about whether telling someone about inappropriate behavior means being "untrustworthy."

A female Republican lawmaker who has been harassed by one Republican and one Democrat during her time in the legislature said she can understand how some of the women who Durham harassed would have not complained.

“When someone does something like that to you, you don’t know what to do or how to act,” the lawmaker said.

When she read the report, she thought most women reacted to Durham's advances in two different ways. They either recognized his predatory behavior and tried to cut off all contact or were flattered that a powerful, albeit, married man was paying attention to them, she said.

The lawmaker chose not to file a complaint over her two interactions, saying that one involved a male lawmaker who mistakenly made sexual contact with her and another male lawmaker who said something inappropriate.

“It’s a personal decision, it is something that is going to impact and change your life,” she said.

A younger female lobbyist who has worked at the legislature in recent years said she has had several lawmakers casually make comments about her appearance.

“They’ve told me how good I looked,” the lobbyist said.

But she also said the culture has hardly been limited to lawmakers, with older lobbyists even occasionally referring to her as “baby” during their interactions. And some lobbyists are resigned that sexual harassment is going to happen, according to the attorney general's report.

While speaking to the attorney general's investigators and sitting in front of a female lobbyist, one male lobbyist who'd seen Durham act inappropriately toward the female lobbyist said, "she is a female lobbyist over there. She has to take this."

Even after the report's release, victims are facing problems. Harwell called on the public to not try to identify people listed in the report, but some of the Jane Does are getting messages from people saying they know the women were in the report. That was one of the fears of Rep. Billy Spivey, who served on the special committee assigned to investigate Durham and opposed releasing the final report.

“If someone spent enough time up here and went through and figured out who enough of these people were, and filled in all the names and put it on the internet, then we have done grave damage to future people who may have experienced the same thing. It was already an experience trying to get someone to come forward this time and if we betray that confidentiality and anonymity with this report, we’ve taken more steps back than we have forward,” Spivey said last week.

'I do not believe responsibility is being accepted'

In a culture where sexism and, at times, sexual misconduct go unchecked, it's tough to foster a work space where everyone feels safe, said Rachel Freeman, vice president of programs at the Nashville Sexual Assault Center.

“As long as we continue to make excuses for inappropriate sexual activity we’re never going to end sexual violence or create an environment where victims feel comfortable coming forward. One of the best ways to start making change and put an end to sexual violence is for us to hold people responsible

when they act inappropriately. I do not believe responsibility is being accepted," Freeman said, in response to the allegations against Durham and his decision not to resign.

A female lobbyist pointed to the new sexual harassment policy created with the help of Harwell's task force as progress. It includes creating publicly available reports when a violation occurs, mandatory reporting and requires training for staff and lawmakers.

When discussing the prospects of creating a different environment at the legislature, the female lawmaker, who stressed that the overwhelming majority of the male Democrats and Republicans she has worked with have been respectful of her, said it partially involves knowing what to do if someone makes inappropriate advances or comments toward another person.

"The policy ought to create an atmosphere where a woman can come to work without fear of being distracted by sexual harassment from either a coworker, supervisor or an elected representative and do her job without fear of all of this interference," said attorney Thomas Clay, of the Louisville, Ky.-based law firm Clay Daniel Walton Adams.

Clay represented three legislative staff members who filed sexual harassment and retaliation claims in the Kentucky legislature. The consequences of sexual harassment must have actual teeth, he said. Even for elected officials, it must be more than stripping away titles and removing lawmakers from committees.

"There has to be some kind of effective disciplinary mechanism, otherwise the conduct has no consequences," Clay said.

The new policy outlines more points of contact for people who believe they've been sexually harassed. But the younger female lobbyist said she believed the onus to change things shouldn't simply fall on lobbyists and staffers who may be victims to say something. It also falls on legislators to speak out against one another.

Lobbyists, especially those employing someone who is a victim of sexual harassment, need to do more to ensure their employees feel safe reporting the problem, said the male lobbyist.

"I think there is a burden of a culture change that not only belongs to the legislature and the legislative plaza, but also the advocacy community up there," the male lobbyist said.

"What probably needs to change culturally more than anything up there is people can feel like if people come forward and talk about this, that they're not going to be held professionally in contempt."

The impact of the new harassment policy remains to be seen. But for now, Durham remains a member of the Tennessee General Assembly. And at least some women remain afraid.

Reporters Holly Meyer, Stacey Barchenger, Nate Rau, Kirk Bado and Thomas Novelly contributed to this story. Reach Dave Boucher at 615-259-8892 and on Twitter @Dave\_Boucher1. Reach Joel Ebert at 615-772-1681 and on Twitter @joelebert29.