



Creative Strategies for Outreaching And Working Effectively with Immigrant Survivors of Sexual Violence in the Workplace

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GOALS

1. To raise awareness about sexual violence in the workplace against immigrant women and how to start talking about it with survivors
2. Present tips for working with traditional and non-traditional partners
3. Introduce state and federal basic legal remedies available

IMMIGRANT WOMEN WORKERS



Occupations of Immigrant Workers

- Overall, immigrant workers represent an especially large share of the total U.S. labor force in two major areas:
 - Private household services (42%)
 - Farming, Forestry & Fishing (37%).
 - Looking only at low-wage immigrants, the share is 44% in each of the above major labor areas.
- CCN Report - Undocumented workers make up about 5% of the U.S. labor force and are concentrated in construction, agriculture and cleaning jobs.
 - 36% of all insulation workers
 - 29% of all agricultural workers
 - 29% of all roofers.

Female, Low-Wage Workers in the U.S.

- Overall, women make up 40% of the immigrant workforce:
 - In the low-wage labor force, women make up 44% of low-wage, foreign-born workers
 - Amongst undocumented workers, women comprise 32% overall and 37% of low-wage undocumented workers
- Per an EEOC report, crop production employs the largest percentage of Hispanic women (18.5%) and the largest percentage of total Hispanics (61.8%).

Source: Urban Institute, Immigration Studies Program, November 2003; EEOC report on «Women of Color: Their Employment in the Private Sector», July 2003.

Immigrants Face Vulnerabilities in all Phases of immigration

Immigrants, especially women, are vulnerable to violence during all phases of migration:

- At home
- When being recruited for migrant work
- While in transit
- And, once in the destination country - at work



- Why?

- Sexual violence in the workplace is fostered by an imbalance of power between employers, supervisors and their low wage immigrant workers-Human Rights watch- cultivating fear-
- Power: to hire or fire, retaliate and/or confer certain “benefits”
- Immigrant women are extremely vulnerable
- Immigrant women often face systemic barriers exacerbated by their status as blue collar workers, often unauthorized to work will NOT report these abuses nor bring perpetrators to justice



Sexual violence or sexual harassment?

- Sexual harassment is a form of sexual violence and gender violence
- Sexual harassment must be addressed immediately and seriously because it is often a precursor to sexual violence in the form of rape
- Immigrant survivors report that supervisors or co-workers perpetrators had harassed and abused them multiple times before completing a rape during a period of time

Do women reach out?

- **De Coster Iowa Farms**
- Women reach out because of immigration fears and other victimization issues Women had been harassed for months and then raped on a weekly basis
- Women reported:
 - Incidents of ongoing debilitation humiliating sexual harassment
 - They worked in isolation and were easy prey

Whose Business is it Anyway?

- **Postville Raid**
 - Stumbling into victims by chance
 - Olivia's story
 - Allegations of survivors
 - Feeling like “cattle”
 - Partnering to enter and exit the lines of work
 - Wearing double panties and sweatpants
 - Constantly touched sexually by line supervisors
 - Assaulted sexually by men and women supervisors

Whose Business is it Anyway?

- Sexual assault programs are the experts on providing services to victims of sexual assault
 - Challenges: victims may not know their role and how they can help, services are overwhelmed by the numbers served and the scarce resources,

Whose Business is it Anyway?

SA programs

- Fewer resources
- Lack of access to workplaces
- “That is not part of my grant...”
 - No direct connection or partnership with EEOC, Fair Agencies, Workforce development, employment attorneys, unions etc

● Survivors

- Lack knowledge about the services
- Concerned about losing their jobs if reporting
- Concerned about being deported if brought to law enforcement’s attention

Lack of complaints- Why?

- Cultural Barriers
- Language Barriers
- Lack of Education & Rights Awareness
- Shame/Embarrassment Over Traumatic Event
- Fear of Retaliation
- Poverty, no other job
- Lack of mobility- isolation
- Fear of Court & Gov' t



CHALLENGES

INTERNAL

Cultural stigma, Lack of support system, SA dynamics education, Immigration status, Isolation



CHALLENGES

EXTERNAL/SYSTEMATIC

Language access, Traditional service model inaccessible, Health care, Lack of information on assistance & rights, Transportation, System lack information, Futility mentality - Chilling Effect, Anti immigration - Existing legislation, Mandatory U visa certification, Prejudice, Lack of coordination systems, Systematic response, Lack of investigations/prosecutions, Cap of damages



Type of abuse/exploitation:

PHYSICAL

- Rape
- Sexual assault
- Sexual Harassment
- Retaliation
- Sex Trafficking
- Stalking
- Domestic Violence
- Pregnancies/ Ownership
- Pornography

OTHER

- Threats with physical harm
- Voyeurism
- Hostility
- Intimidation, Verbal abuse
- Black listing
- Family Members as targets
- Recruitment under false pretenses-
Fraud Recruitment
- Heterosexual, Homosexual sex
- Secondary trauma by other workers
who are not target
- Use of legal systems to control

Impact of sexual crime in the lives of immigrant women

Giselle A. Hass, Psy.D

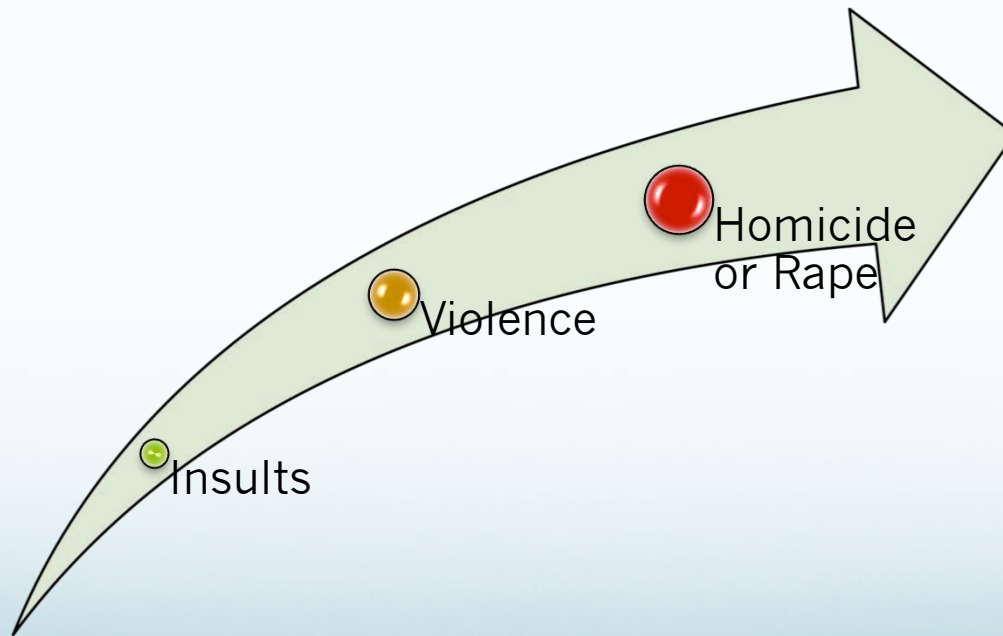
Key Principles

- Being victimized or exposed to victimization is stressful for everyone.
- Undergoing a stressful situation leaves consequences:
positive and/or negative.
- Not every stressful situation is traumatic.



Impact of the stress- when does it becomes trauma?

- The magnitude of the stressful situation:
intensity and duration



- Pre-trauma vulnerability:
 - previous trauma,
 - mental health,
 - personality traits,
 - age,
 - gender,
 - culture,
 - physical health and impairment
- Preparedness for the event
- Sequential stressors
- Quality of the immediate and short term responses :
 - social support
 - Institutional response
- Post event recovery factors



What is trauma?

- Symptoms that reflect a person's inability to come to terms with real experiences that have overwhelmed their capacity to cope
- Stress of extreme proportions
- A matter of resources versus demands



Can a traumatic event be differentiated from a stressful event?

- NOT without interviewing/assessing the victim.

“The critical element that makes an event traumatic is the subjective assessment by the victim” (of how threatened and helpless they felt).”

Post Traumatic Stress Disorder

- Most common Axis I disorder for victims and children of interpersonal crime
- Anxiety symptoms: panic, dissociation, fragmentation of bodily experience
- Flashbacks, memories, acting as if threat was still occurring
- Hypervigilance and heightened arousal
- Increased risk of alcohol/drug use
- Poor impulse control-problems with irritability or anger
- Depression likely to follow

Is PTSD the disorder that reflects the presence of trauma?

- Yes, but it is not the only one
- Other diagnosis may be present instead of PTSD
- There may be collateral diagnosis
- Long term PTSD can take the form of depression, pathological grief, or personality changes

Other diagnosis

- Major Depression
- Generalized Anxiety Disorder
- Somatization Disorder
- Eating Disorders
- Substance Abuse
- Etc.



Long term consequences

- Low self-esteem
- Impaired self-perception
- Tendency for somatization
- Difficulties with decision-making
- Difficulties to manage emotions
- Irrational thoughts
- Difficulties to trust others
- Behavioral problems

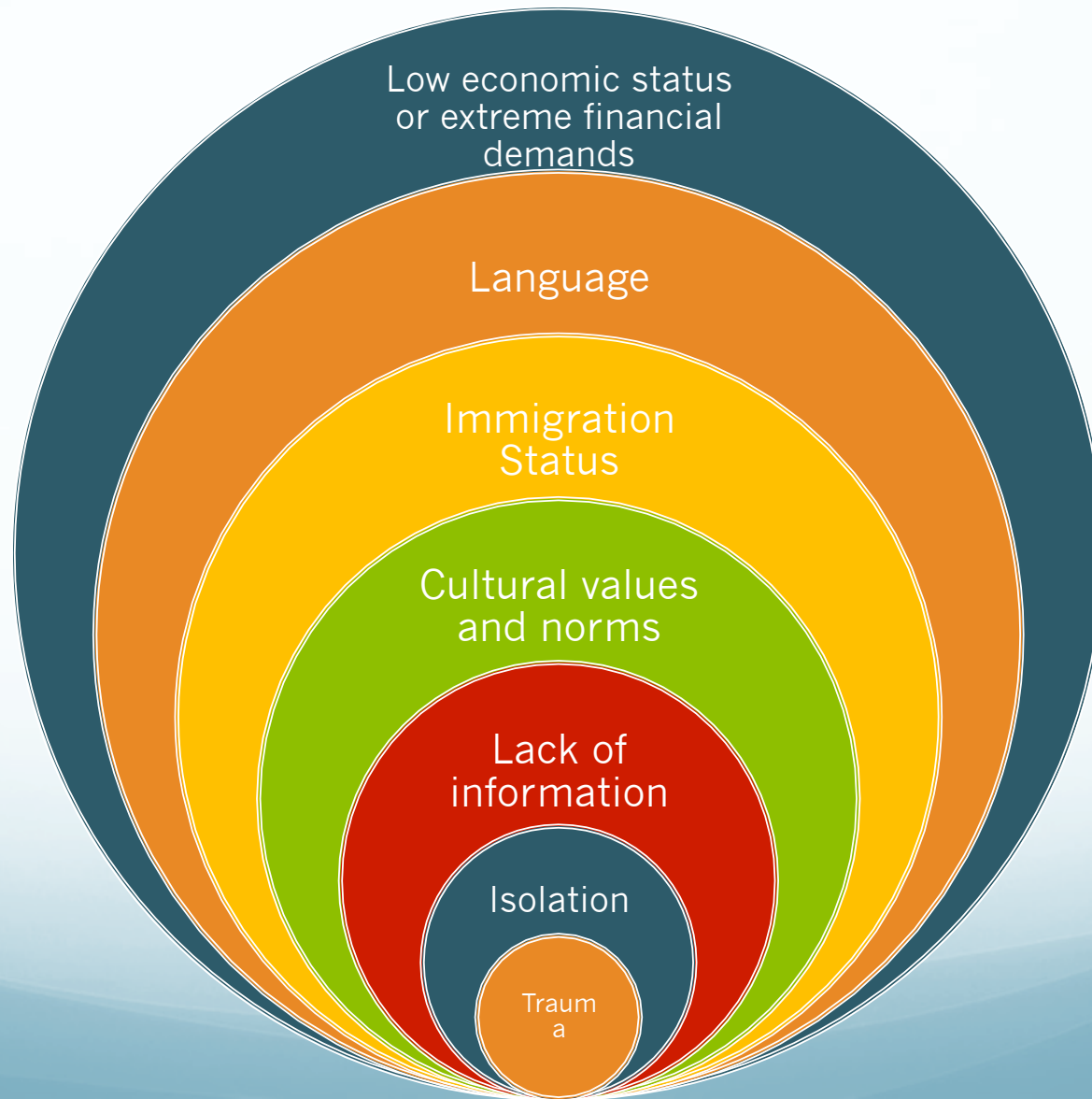


Can PTSD (and other consequences of trauma) be malingered?

Yes-
If you rely
solely on
self-report



Complications that may impact the traumatic response for immigrant women



Women cope with interpersonal violence by using:

- Denial
- Minimization
- Avoidance
- Freezing
- Ambivalence
- Embarrassment/ Shame
- Dependence/ Attachment
- Self-defense
- Substance Abuse



Direct and indirect ways of coping with the abuse

Direct

- Tell someone in authority
- Quit the job
- Made a report
- Refused to do what employer asked
- Confronted the abuser
- Fought back
- Ask for a transfer
- Sought help
- Call the police

Indirect

- Call in sick to avoid going to work
- Dress dowdy
- Get a boyfriend or flirt with someone in the place of employment
- Go along up to certain point
- Tell someone
- Try to distract supervisor
- Try to make the work environment safer

Interviewing immigrant women victims of sexual violence in the workplace

How to ask about it

How to talk about it



Reluctance to speak about or go in detail about a traumatic situation is common. Victims may feel embarrassed, and may want to avoid reactivating traumatic memories (Agar & Read, 2002). For some cultural groups, talking about sexual matters is taboo.

Activation response

When directly asked about it, a victim may show extreme distress, anxiety, intrusive posttraumatic flashbacks, or anger. These are trauma-specific psychological states triggered by the re-activation of the traumatic experience.

Activation Response

- Assessment related activation may be psychologically challenging if the individual does not have sufficient capacities to internally regulate his or her distress. As a result, it is important to determine the extent to which trauma issues can be discussed with a given survivor without unduly "re-traumatizing" her.

Activation Response

If the interviewer believes that the victim may suffer high re-activation, then it is preferable to at least temporarily defer significant questions about the traumatic material and proceed with caution (Najavits, 2002). It is important to note, however, that talking about traumatic memories is usually helpful.

- Sexual trauma is a deeply personal and private matter, victims may fear being judged or stigmatized. The victim may have to disclose information that they have never told anyone before. Even if the client is not traumatized by the incident, disclosing sexual experiences may produce shame, embarrassment, and anger. Some clients may cry, others may become agitated and anxious, withdraw, become irritable and even hostile.
- The interviewer needs to be highly supportive.

- The victim's mental state during the interview is more important than getting at the way she got to be that way. It is important to ask about her functioning and symptoms before getting into the specifics of the sexual abuse or rape itself. Follow the client's lead unless she becomes very distressed.

Some clients may need to develop an alliance with the interviewer before they feel sufficiently comfortable to disclose sexual or trauma-related information.

Ways to make it easier to talk about it

- There are some tactics that interviewers may use to increase likelihood that the client opens up and provide sufficient in-depth information about the instant event.

Safety

It is essential that the client feels safe when speaking about situations that were dangerous. This is the only way in which the fear and anguish associated with the trauma lose its ability to re-traumatize her in the present.

Safety

Environmental safety:

- Office or setting
- Within or outside client's community
- Presence of support system
- Presence of security symbols
- Safety of the overall environment

Safety

Psychological safety:

It means that the client will not be:
criticized,
humiliated,
rejected,
dramatically misunderstood,
needlessly interrupted,
and that psychological boundaries will not
be violated.

When speaking about the instant incident

- Ask in-depth questions
- Provide prompts to get episodic memories
- Provide choices
- Probe with behavioral markers for issues that the client may fail to mention for any reason
- Validate but do not collude with denial or minimization
- Do not be judgmental
- Normalize, educate, provide structure
- Guide her to move forward, support small steps, support the vision for the future
- Provide reality checks and clarity in judgment
- Expand her options and alternatives

If abuse was ongoing

- Ask about first, worst and last incident
- Get information on the exact nature of the abuse
- Find out about grooming
- Find out about what she did, think, feel and experience around the issue
- Open the door for ambivalence
- Ask about functioning before and after the instant incident or the first time
- Ask not only about psychological symptoms but also interpersonal, social and health-related

Evaluating Coercion and Control

- Control is influencing someone to do something they would not otherwise do.
- Coercion is the act of getting someone to act or think in a particular way by using or threatening with negative consequences for noncompliance.

Ask about fears that interfered with stopping or escaping the abuse

- Deportation fear
- Language
- Feelings
- Economic need
- Helplessness and powerlessness
- Power differential
- Fear for family or friends
- Cultural values

Re-empower the victim

- Help her clarify what her bottom line is
- Help her make her own decisions
- Do not engage in a power struggle but be directive
- Focus on a violence-free life



Thank the client and say
something to help her believe in
the restoration of the moral
order

Questions?



- Thanks!
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SEXUAL VIOLENCE AND THE WORKPLACE; WORKING WITH NON-TRADITIONAL PARTNERS

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Employment, Violence and Stalking

- On the job harassment and violence
- Changes in work performance
- Termination
- Absences/time off
- Accommodations - safety and disability
- Unemployment insurance
- Wage theft and hours/overtime

Poll

Have you helped a survivor address employment issues related to the violence?

1) Yes

2) No

Dealing With the Workplace

- Does the survivor want to disclose?
- What does the survivor need/want?
- What are the relevant laws/policies that can help?
- Who in the workplace will be an ally?
Obstacle?
- What is possible within the context of the particular workplace?
- How to meet certification requirements or requests?

Issues & Relevant Laws

Federal Laws

- Title VII
 - Discrimination
 - Sexual harassment
 - Retaliation
- ADA
 - Discrimination
 - Accommodations
 - Retaliation
- FMLA - medical leave
- FLSA - wage and hour

State Laws

- Discrimination
- Time off
 - Crime victim leave laws
 - Violence-specific leave
 - Paid sick/safe days
- Unemployment insurance
- Workplace violence protection order
- Wage and hour

State and Local Laws

Discrimination

Accommodations/leave

Unemployment insurance

Workplace protection orders

Wage and hour, safety

Nondiscrimination

- Protection from firing, or refusal to hire someone just because they are a survivor
- DV, SA, stalking
- Actual or perceived
- Employer size
- Acts of abuser
- Proof requirements

Accommodations and Leave



What is a “reasonable accommodation”?

Changing telephone extensions

Changing hours or shift

Transfer

Changing work location or entry/exit points

Time off

Security escort

Structural modifications

Unemployment Insurance

- Leaving work was necessary to protect themselves or family from domestic violence, sexual assault or stalking
- 44 jurisdictions by statute or practice
- Some states just DV; others DV and stalking; some DV, SA and stalking
- Not undocumented workers

Wage and Hour, Safety

- Minimum wage
- Overtime pay
- Breaks
- Tips
- Health and safety
- Workers compensation

Workplaces Respond National Resource Center

- Created and funded by U.S. Department of Justice, Office on Violence Against Women
- Addresses domestic and sexual violence and stalking (prevention and response)
- Audience is non-traditional stakeholders: employers and unions; assist advocates to educate workplaces to assist victims and hold perpetrators accountable
- Focus on vulnerable/underrepresented workers

Workplaces Respond Partners



Workplaces Respond Components



www.workplacesrespond.org

twitter.com/WorkplaceNRC

facebook.com/WorkplacesRespond



NEW SURVEY EXAMINES WORKPLACE IMPACT OF VIOLENCE

Federal Government Issues Guidance on Policies

On February 8, 2013, the federal government [issued](#) a substantive [guidance](#) to federal agencies regarding the development and implementation of workplace policies addressing domestic violence, sexual assault and stalking. The guidance relied significantly on authoritative tools and information on this website, Workplaces Respond to Domestic and Sexual Violence: A National Resource Center. [Read more.](#)

Create a Policy



Use our tool to create a policy for your organization that follows best practices. How much do you know about violence and its effects on the workplace? Take our quick quiz and find out.

[Create a Policy](#)

Take the Quiz



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[Take the Quiz](#)

Commit to Act



We – employers, unions, labor organizations – commit to intensify our role in ending domestic and sexual violence in our workplace.

[Commit to Act](#)

Information on:

- [Workplace Violence](#)
- [Guns and the Workplace](#)
- [Protection Orders](#)
- [Union Responses](#)

I would like to...

- ▶ [Interact with a virtual employee](#)
- ▶ [Create a workplace policy](#)
- ▶ [Learn about the cost of sexual violence](#)
- ▶ [Identify security concerns](#)

Implement

Workplace Policy Creation Tool

Programs for Awareness

The Benefits of an EAP

Guide for Advocates

Guide for Supervisors

Comprehensive Response

Union Responses

Education and Training

Guide for Advocates

An Advocacy Guide to Addressing the Impact of Domestic and Sexual Violence, Stalking and Dating Violence on the Workplace

Advocates have a critical role to play to improve workplace responses to domestic and sexual violence, dating violence, and stalking. Advocates are a critical piece of intervention and prevention and can make a difference through advocacy with (1) victims; (2) Employers; (3) Attorneys; and (4) the community at large.

I. Assisting Victims with Workplace Issues

Domestic and sexual violence, stalking and dating violence can impact the workplace whether the violence actually takes place there or somewhere outside the place of employment. Economic security is a critical component of safety for victims of violence; the ability to maintain one's employment can greatly enhance a victim's ability to create safety in his or her life and commence psychological/emotional recovery. An advocate is often the only person with whom a victim can discuss the impact of violence on his or her life, including his or her employment. For more on the impact of domestic and sexual violence, stalking and dating violence on the workplace, see [The Facts](#).

A careful and comprehensive discussion with each victim is essential because not all individuals will realize that the violence is affecting their job. Many victims are unaware that they have workplace rights and that there may be remedies or accommodations that can enhance their safety and protect their employment. Before initiating any discussion, advocates should always advise victims about the extent to which their conversations are confidential.¹ Next, advocates should help victims consider the myriad ways interpersonal violence impacts their lives, including in the workplace.

Consider asking a victim the following sample questions:

- How has domestic or sexual violence, dating violence, or stalking impacted your work experience?
- Have you experienced any unwanted sexual behaviors, including comments or jokes, threats, touching or other types of assault in the workplace or by someone who works with you?
- Do you feel as if you are being watched or followed at work or to and from work?
- Have you received unwanted calls, texts, emails, or messaging on social networking sites during work or by a coworker?
- Have you told anyone at work about your experiences, such as a coworker, supervisor, manager, human resources, or security officer? If yes, can you tell me more about how that reporting process went? What is happening as a result of your disclosure? Has your employer responded to your needs? In what ways? Do you know if a claim was filed with the Equal Employment Opportunity Commission "EEOC" (or with the state equivalent)?
- Have you talked to an attorney about what is happening to you?² If not, would you like me to assist you to locate an attorney?

Depending on the individual victim's circumstances and objectives, there are several ways an advocate can

Implement

Workplace Policy Creation
Tool

Programs for Awareness

The Benefits of an EAP

Guide for Advocates

Guide for Supervisors

Union Responses

What Can Unions Do?

Regional and National
Initiatives

Policy and Contract Language

Education, Training and
Support

Members Who Perpetrate
Violence

Education and Training

Union Responses: Making a Difference

Why are domestic and sexual violence and stalking union issues?

Like many other workplace health and safety issues that unions tackle for the benefit of their members, domestic and sexual violence and stalking are serious, recognizable and preventable problems.

Domestic and sexual violence and stalking affect the safety and productivity of the workplace -- which makes them a union concern. And, like many of the other workplace health and safety issues that unions tackle for the benefit of their members, violence is a serious, recognizable and preventable problem that affects a significant number of union members - both as victims and perpetrators of such violence.

- A recent Department of Justice study found that 63% of the rapes/sexual assaults experienced by female victims were committed by non-strangers such as intimate partners, friends, and family members.¹ Rape exacts the highest costs per crime victim of any criminal offense: \$127 billion per year.²
- A recent Department of Justice study reports that 85% of victims of domestic violence are female and 15% are male.³
- One in twelve women has been stalked in her lifetime.⁴ The overwhelming majority of victims are women (78 percent), and the majority of offenders (87 percent) are men.⁵

Many employers lack an understanding of the dynamics of domestic and sexual violence and stalking and react in non-supportive or even discriminatory ways when violence becomes a workplace issue. Consider the following types of members' needs and whether your union is prepared to respond:

- A member went on a date with a person who now unrelentingly stalks him or her at work, and the employer terminates your member to avoid a workplace security risk.
- A perpetrator repeatedly prevents a member from leaving the house in the morning and the member is on final warning for tardiness and absenteeism.
- A member who works at a luxury hotel is sexually assaulted by a hotel guest.
- Another member goes to her steward explaining that she and her ex-partner, who is also a member of the union, work together at the same facility. She has received an Order of Protection requiring that the ex-partner remain at least 500 feet away at all times.

For statistics on why domestic and sexual violence and stalking is a workplace concern, see fact sheets on [Violence and the Workplace](#), [Impact of Violence](#), and [Costs of Sexual Violence](#) on this website.

1. U.S. Dept of Justice, Bureau of Justice Statistics, Criminal Victimization, 2008 (2009).

2. Nat'l Institute of Justice, Extent and Costs of Crime Victimization: A New Look (1996).

3. Callie Marie Rennison & Sarah Welchans, U.S. Dept of Justice, Bureau of Justice Statistics, Intimate Partner Violence (2003).

4. Patricia Tjaden & Nancy Thoennes, Nat'l Institute of Justice, Stalking in America (1998).

5. Id.

Union Resources

Outreach/Training/TA Strategy

- Unions and Workers Rights Groups

- Civil rights, women's, and safety & health committees
- Educators/trainers
- Labor mediators
- Industry or occupation specific workers rights groups
- Engaging men as allies

- Businesses

- HR and EAP professionals
- Industry associations
- Comprehensive programs, not just policies
- Pilot site project

Outreach/Training/TA Strategy

- Federal government
 - Policies and training/TA
 - EEOC fact sheet and trainings for advocates
- Advocates
 - Assisting survivors to maintain employment
 - Working with workplaces as a partner
 - Trainings

Approach

- Encourage workplaces to recognize, respond and refer, and implement preventative measures for future
- Proactive framework that is survivor-centered and ensures accountability for perpetrators
- Multi-stakeholder

Advocates Engaging Workplaces

- Point of contact: HR? EAP? Owner? Steward? Legal?
- Community resource/referrals
- Trainings
 - General education about violence and workplace impact (awareness raising)
 - Supervisor, steward and co-worker response
- Comprehensive programs at workplaces
 - Prevention and response
 - Victim-centered
 - Accountability for perpetrators

Prevention and Response Framework

- Culture of support for victims and accountability for perpetrators
 - Victim centered
 - Clear consequences for perpetrator-employees
- Buy-in from leadership
- Multidisciplinary response team
- Workplace protocols/policies
- Education and training
- Partnerships with community stakeholders

Changing Workplace Culture

- Information is the best tool
- Support/assistance for victims
- Accountability/consequences for perpetrators
- Role of co-workers as “upstanders”

Support of Leadership

- Essential to allow use of time, money, to address the issue
- Making the business case - statistics/research on the costs, liability issues, legal requirements, social responsibility, diversity, etc.
 - Cost calculator:
<http://www.workplacesrespond.org/assess/cost-calculator>
- Employee survey results
- Partnering with peers and associations

Multidisciplinary Response Team

- Essential to proactive, comprehensive action
- If the workplace faced an incident, who would become involved?
 - HR, EAP, legal, security, union, others
- Meeting to discuss each dept' s roles and responsibilities

Existing Workplace Policies/Protocols

- Leave (sick, vacation, leave of absence, FMLA)
- Sexual harassment
- Discipline/termination
- Collective bargaining agreement
- Workplace violence
- Policies specific to workplace and dv/sv/stalking

Presidential Memo re: Federal Agencies 4/18/2012



“As the Nation's largest employer, the Federal Government should act as a model in responding to the effects of domestic violence on its workforce.”

Creating a DV/SV/Stalking Policy

- Dv/sv/stalking and workplace policy or protocols to add to existing policies
 - Incorporate relevant laws and liability issues
 - Assistance and referrals for victim-employees
 - Perpetrator as employee: use of workplace resources and work time; discipline; time off; referral to resources
 - What to do if victim and perpetrator are co-workers

Policy Creation Tool

WORKPLACES RESPOND TO DOMESTIC & SEXUAL VIOLENCE
A National Resource Center

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Join us Follow us Watch us

Learn Assess **Implement** Evaluate Resources

→ Create Your Policy

- 1. Purpose
- 2. Definitions
- 3. Persons Covered By the Policy
- 4. Statement of Confidentiality
- 5(a)(i): Responses to Victims: Nondiscrimination and Non-Retaliation
- 5(a)(ii): Responses to Victims: Leave and Other
- 5(a)(iii): Responses to Victims: Access to UI
- 5(a)(iv): Responses to Victims: Work Performance
- 5(a)(v): Responses to Victims: Protection and Restraining Orders
- 5(b): Responses to Employees Concerned about Violence
- 5(c): Responses to Workers Who Commit Violence
- 6. Reporting and Referrals
- 7. Other Policies
- Education and Resources
- Other Matters to Consider
- Download Completed Policy

Create Your Policy

Dating violence, domestic violence, sexual assault and stalking have effects not just in the home, but also in the workplace. Violence affects not only employees who are victims, but also co-workers, managers, and employee perpetrators. It also impacts employees' attendance, productivity, health care costs, morale, and safety.

A policy addressing the workplace effects of domestic and sexual violence is an important step in tackling these issues; it creates a roadmap for employers and managers to respond in supportive, safe and effective ways.

This tool will help you create a workplace policy by guiding you through a series of questions. It will offer you a choice of model language based on a promising practice (which has the most protective language for employees) or, if applicable, language based on the law in your state or locality. With either choice you will be in compliance with the relevant law. In some jurisdictions, specific laws do not exist for each issue this policy covers, then you will only see the "promising practice" as a choice.

It should take you about 15-20 minutes to complete, and you will be able to download the policy and save it on your computer at the end of the process. You will also receive a checklist of additional matters to consider.

First, we'll need some information about your organization.

Organization name: *

Contact Name: *

Contact Location: *

State/Locality where you do business: *

* If your organization operates in more than one state or locality, for now just pick the place where you are headquartered or do the most business.

Policy Effective Date: *

The date upon which your new policy will go into effect.

Information on:

- Workplace Violence
- Guns and the Workplace
- Protection Orders
- Union Responses

I would like to...

- ▶ Interact with a virtual employee
- ▶ Create a workplace policy
- ▶ Learn about the cost of sexual violence
- ▶ Identify security concerns

Education and Training

- Awareness raising - tie to workplace
- Implementation of and training on policy
 - For EAP, HR, union staff
 - On policy for relevant managers/supervisors
 - New employee orientation
 - Add-on to sexual harassment training or safety and health training

Awareness Raising Activities

- Posters/information about services/referrals
- Employee needs assessment survey
- Lunchtime talks to raise awareness and recognize if someone may need assistance - 3Rs (recognize, respond, refer)
- Quiz at www.workplacesrespond.org
- Cosmo article:
<http://www.cosmopolitan.com/sex-love/relationship-advice/intimate-terrorism>
- Training exercise:
<http://www.workplacesrespond.org/implement/education-and-training/interact>

Quiz

Futures Without Violence | Domestic and Sexual Violence | www.workplacesrespond.org/assess/assess-your-knowledge

WORKPLACES RESPOND TO DOMESTIC & SEXUAL VIOLENCE
A National Resource Center

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Join us | Follow us | Watch us

Learn | **Assess** | Implement | Evaluate | Resources

Assess

- Cost Calculator
- Take a Quiz**
- Real World Examples

Domestic and Sexual Violence in the Workplace

Question 1 of 10

1 What percentage of employed battered women is harassed at work by abusive partners?

CHOOSE AN ANSWER:

- Less than 7 percent
- Less than 20 percent
- More than 40 percent
- More than 70 percent

X TRY AGAIN...

Send to a friend

HOME <ul style="list-style-type: none">Keep InformedGet HelpAbout UsContact Us	LEARN <ul style="list-style-type: none">The FactsModel Workplace PolicyPresidential Memo to Federal Agencies	ASSESS <ul style="list-style-type: none">Cost CalculatorTake a QuizReal World Examples	IMPLEMENT <ul style="list-style-type: none">Workplace Policy Creation ToolPrograms for AwarenessThe Benefits of an EAP	EVALUATE <ul style="list-style-type: none">Monitoring and EvaluatingSafety and Security	RESOURCES
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Poll

Have you helped a business or union conduct any of the following activities? (Choose yes or no)

- Presentation to workers about understanding and responding to domestic violence, sexual violence, and/or stalking
 - Supply information about resources to help survivors
 - Develop a workplace policy
- a) Yes
b) No



Partnership with Community

- Local service providers
 - Referral
 - Joint awareness-raising trainings/presentations
- Law enforcement
 - Emergency response
 - Enforcing orders of protection which cover workplace
- Court system
- Health care providers
 - Insurance discrimination
 - Prevention

Resources

- Workplaces Respond: A National Resource Center
www.workplacesrespond.org

- Legal Momentum (information on state laws)

<http://www.legalmomentum.org/what-we-do/violence/victims-of-violence-employment/state-law-guides>

Federal Laws Against Sexual Harassment and Assault in the Workplace

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Background

- Since 1995 as Regional Attorney, directs litigation and legal program of federal agency (EEOC) that enforces anti-discrimination laws at work (No. Cal, No. NV, OR, WA, AK, ID, MT); office has recovered \$ \$ millions for victims
- 1979-1995: Staff and Managing Attorney at Asian Law Caucus, San Francisco; represented dozens of battered immigrant women in immigration proceedings; lead author for memo to Congress on “self-petitioning” under VAWA

Title VII of the Civil Rights Act of 1964

- Except for the Equal Pay Act of 1963 (gender disparity in wages), prior to 1965, no federal **protections against discrimination on the basis of race, color, sex, national origin or religion**. Title VII prohibits decisions based on these factors from recruiting to hire to fire.
- Also **prohibits retaliation**, including post-employment references, if employee or witness engaged in “protected activity”, i.e. protesting discrimination or participating in a proceeding.

Title VII prohibits sexual harassment

- 1986: Supreme Court recognizes sexual harassment as prohibited by Title VII's prohibition of discrimination based on sex
- *Quid pro quo*: conditioning job opportunities, i.e. hire or promotion or retention, on providing sexual favors
- If proven, no affirmative defense can be raised by employer

Title VII prohibits sex discrimination

- **Hostile work environment:** *unwelcome physical or verbal conduct* that is *severe or pervasive* that alters the conditions of work that it creates a hostile work environment; court looks to “reasonable woman” standard
- **Affirmative defense:** to escape liability, the employer must show that 1) once it was aware of the harassment it took prompt and correction action, *and* 2) the claimant failed to take reasonable steps to complain. But if company has no policies and no meaningful way to complain, e.g. company retaliates if you complain, second prong cannot be established.

Remedies

- If violation found, claimant can obtain back pay, front pay, reinstatement, promotion, hire, etc. to make her “whole”
- Compensatory damages: \$\$ for emotional distress, pain and suffering
- Punitive damages: if Company acted with “malice or reckless indifference” \$\$ to punish the company and to deter future behavior

Sample EEOC Cases

- ***EEOC v. Tanimura & Antle***: quid pro quo sexual harassment (for hire) and retaliatory termination; \$1.855 million for claimant and other victims including co-worker who was retaliated against (terminated) (California) (1999)
- ***EEOC v. Harris Farms***: Nearly \$1 million jury verdict for farm worker raped 3 times by supervisor and retaliated against (California) (2005)

Sample Cases

- ***EEOC v. ABM Janitorial***: \$5.8 million settlement for 20+ Latina janitors sexually harassed (one raped) in Central Valley of CA (California) (2010)
- ***EEOC v. De Coster Farms***: \$1.55 million settlement for poultry workers who were raped by co-workers and supervisors (Iowa) (2002)
- ***EEOC v. New Breed Logistics***: \$1.5 million jury verdict for employees sexually harassed and retaliated against (Tennessee) (2013)

Sample cases

- ▶ ***EEOC v. River Point Farms***: \$150,000 for farm worker who was beaten up by husband/co-worker , sexually harassed by supervisor who encouraged husband to kill her, and fired after husband was arrested for domestic violence (Oregon 2013)
- ▶ ***EEOC v. National Food Corporation***: \$650,000 for Latina poultry worker forced to perform oral sex and co-workers who were fired after reporting sexual harassment (Washington state)

Procedures

- Charge must be filed within 180 days with EEOC or within 300 days if there is a state or local “fair employment practices” agency as a prerequisite to filing a lawsuit in federal court
- Charge can be filed by claimant, *third party* or an EEOC Commissioner
- Charge starts the investigation; employers are required by law to cooperate with EEOC which will gather data, interview witnesses, visit the premises, etc.;
- EEOC can obtain information about “**similarly situated**” employees, i.e. class members

Procedures

- After investigation, EEOC may find “insufficient evidence”; claimant gets “Notice of Right to Sue”; *90 days for claimant to file lawsuit*
- Or, EEOC issues Letter of Determination that there is “reasonable basis to believe a violation has occurred”
- If discrimination found, EEOC invites employer to **conciliate** (settle) charge with EEOC which will seek relief for the claimant (resolution is confidential)

Procedures

- If case does not settle, then Regional Attorney can authorize litigation (in consultation with Office of General Counsel);
- Lawsuit is filed in federal court: *EEOC (on behalf of claimant) v. X Company*
- Claimant can “intervene” in government’s lawsuit and bring in additional related claims; EEOC and private attorney are co-counsel in litigated the case (*share confidentiality privileges*)
- Resolution is public

Working with the EEOC

- Provide as much relevant information as possible
- EEOC will not ask immigration status during investigation (it's not relevant to whether sexual harassment occurred)
- *Claimant shares no confidentiality privilege with EEOC investigator*; but courts recognize “attorney-client” privilege between claimant and EEOC Trial Attorney
- In litigation, EEOC will seek protective orders to bar immigration status questions in discovery

Access

- For EEOC offices: www.eeoc.gov
- Filing charge online: www.eeoc.gov
- Contact the Regional Attorney in your area
- EEOC does outreach and education; trains providers, advocates, lawyers, etc. on laws
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