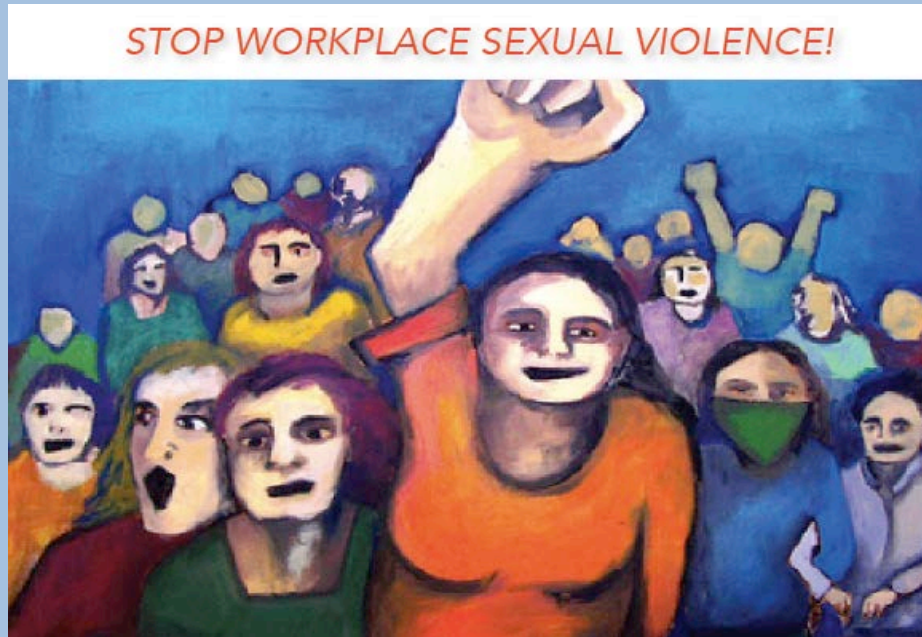


# Working with immigrant survivors of sexual violence in the workplace: Holistic responses

National Webinar, Part II



**Presented by:** Lauren Bonds, Jennifer Cooley,  
Giselle Hass, Sonia Parras Konrad & Debbie Smith.

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# Overall project goal

Forge partnerships between labor and anti-violence advocates that create models to challenge and eradicate workplace sexual violence against immigrant women.

Debbie Smith

# Today

1. Introduction to basic interviewing techniques
2. Safety considerations when working with survivors impacted by trauma
3. Documenting your case (EEOC)
4. Building strong models

# Effective interviewing skills

Sonia Parras

# Lifetime Spiral of Gender Violence



# POLL

Did she consent?

# She “consented”...?

- **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.
  - \* Better pay-raise
  - \* Improve working conditions
  - \* Scheduling
  - \* Getting/keeping a job for a family member
  - \* Not getting “punished”
  - \* Chisme
  - \* Avoid physical harm to self or others

# Dynamics



Consent-giving in-consent-continuum of violence-consent-  
coercion-consent-force-consent-intimidation-consent-threats





# Strengthening your interviewing skills

- What
- When
- How
  - Repeat
- Conversation starters
  - How are things at work?
  - Do you like your job?
  - What do you do there?
  - How many hours do you work?

# Strengthening your interviewing skills

## A step removed

- Did any of your supervisors/co-workers ever ask you out or offer you to go to lunch, call you outside of work, invite you to give you a ride home before or after work?
  - What happened if you said no? (potential punishment/retaliation)
  - Did your supervisor/co-worker ever touch you in an offensive way or in any manner?
    - How many times did it happen? Did anyone see it?
    - Did this happen to you ever?
    - Did you tell anyone about it?
    - Did anyone see it?

## On sexual violence

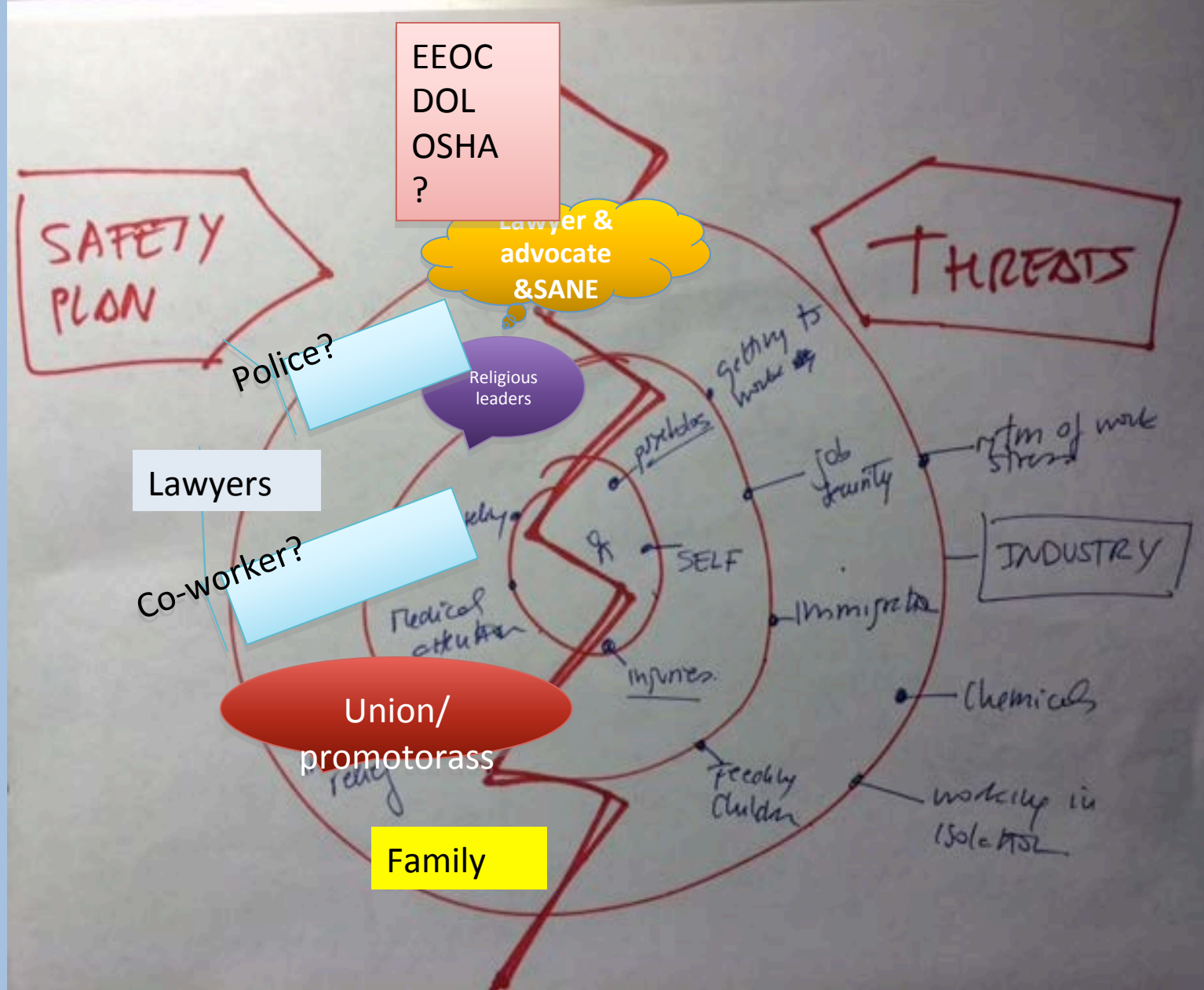
- **Money**
  - Are they paying you all your hours, overtime?
  - How are they treating your co-workers? Any complaints?
  - What do you see?
- **Supervisors or anyone with perceived power**
  - How does your supervisor/co-workers treat you?
  - Has anyone mistreated or disrespected your peers? How?
  - Did any of it ever happen to you?
  - Has your supervisor/Co-worker ever made you feel uncomfortable? If so, how?
- **Did you complain about it or talked about it to**
  - a trusted person in the office/company or a peer? Human resources representative? Union leader? Nurse? Anyone else?

# What does safety look like?

Perceived threats

vs.

Completed threats



# Strategies for creating safer environments with labor organizers & union leadership



Educate

Advocate

Refer

Secure

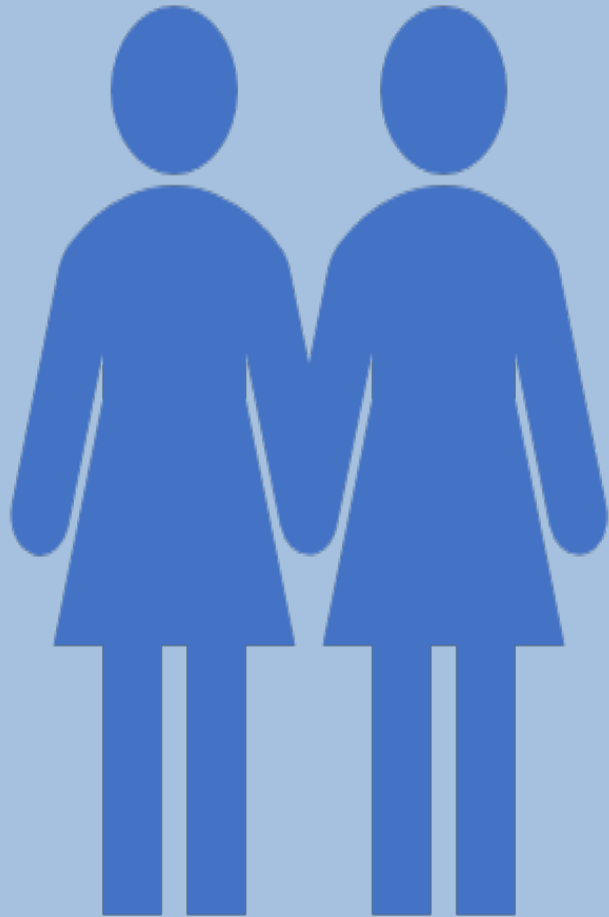
# **Consideration for union leaders**

**Safety First**

Giselle Hass

**Interviewing  
techniques:  
Remember  
that the  
interview**





## **Invite the survivor to write/tell her story**

- You have to provide a safe environment, without judgment
- Bear witness to her experiences
- Provide support and validation

# Eliciting the trauma story

Allow adequate  
time and breaks

Your attitude will  
be CRITICAL

The more  
understanding you  
show, the better  
the results

Watch for SUBTLE  
CLUES reflecting  
internal  
experiences

Follow survivor's  
lead

Use open-ended  
questions if  
possible

Facial expressions,  
eye movements,  
body language

Watch for  
flashbacks

Watch for  
dissociation



# Interviewing techniques



- Give survivor as much CONTROL as possible
- Offer to change anything in setting that triggers bad memories
- Let survivor tell story at OWN pace as much as possible
- Allow survivor to STOP talking about trauma

# Interviewing techniques

Use general explorative questions to help survivor expand the story



Use gentle questions



“I wonder if you could tell me ....”

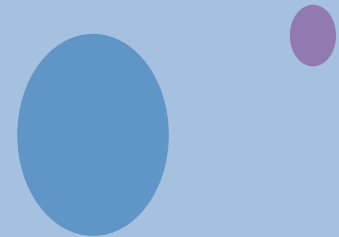


“Would you be comfortable telling me what happened to you during .....?”

## **Symptoms that affect the interview:**

- Reliving the trauma
- Having intense distress at reminders
- Avoiding trauma memories at all costs
- Feel too ashamed to speak of what was done to them
- Have sleep or eating disturbances
- Being depressed but not showing emotions
- Having difficulty concentrating
- Having memory problems
- Being afraid of reprisals or revenge

# **Interviewing techniques**



**Address  
openly  
survivor's  
fears to  
speak  
about it**

---

May be quite realistic

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Ask survivor for his/her suggestions for getting the info you need

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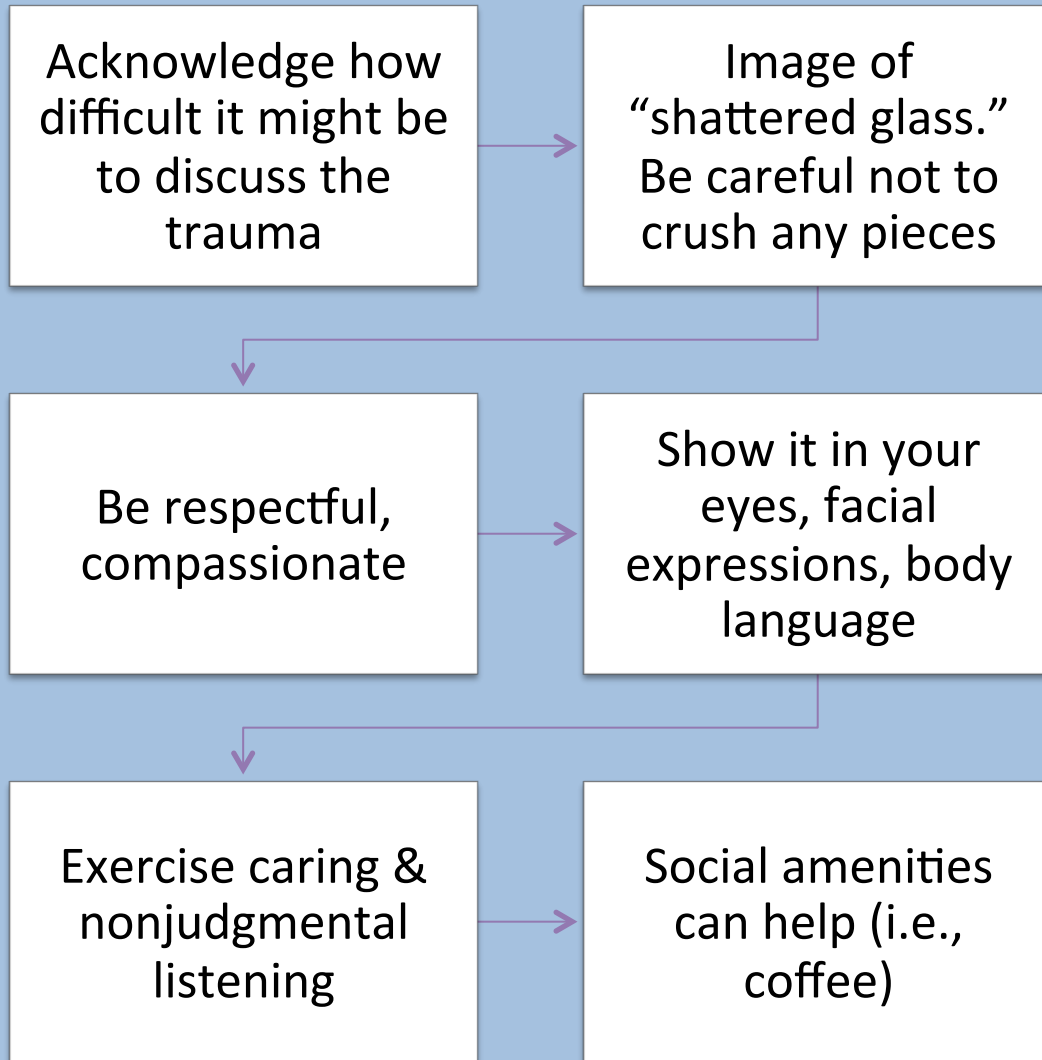
Find alternative ways to get the affidavit in way that the survivor feels is safer

---

Find an alternative source of info

---

Find solutions to their fear or threat to themselves and their family



**Most of all:  
Avoid  
replicating  
the  
traumatic  
situation**

# Interviewing Techniques

When directly asked about abuse, a survivor may show:

- Extreme stress,
- Anxiety,
- Fear
- Anger

Engaging:

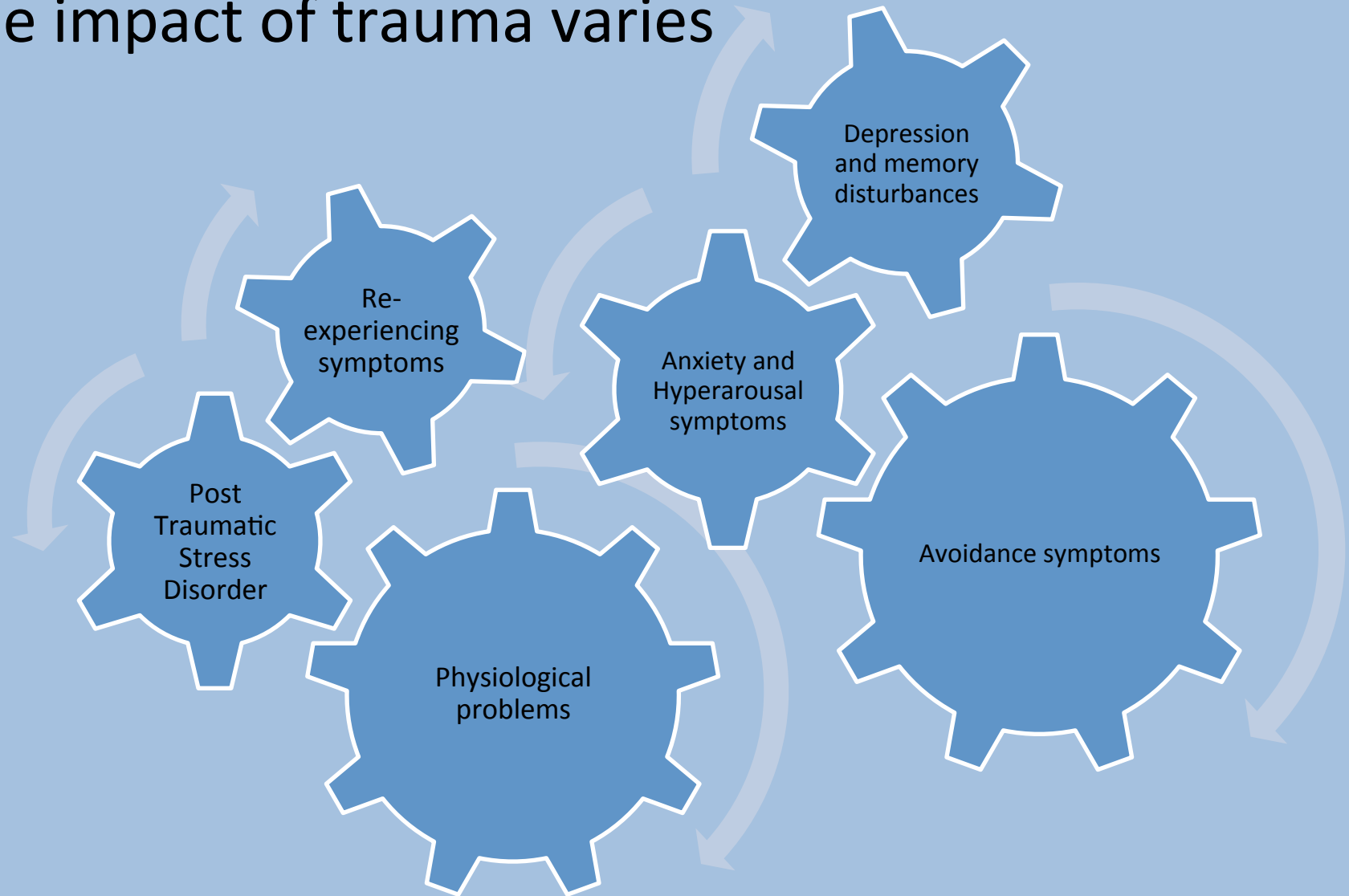
- What can trigger you or make you feel upset?
- What are some ways I would know if something were making you upset?
- What helps when you start to feel upset? How can I help you calm down and feel better?
- What does not help you when you are upset?

# POLL

What is “wrong” with  
her!

# Identifying trauma

- The impact of trauma varies





**Do not  
forget to  
assess  
coercion**



Perpetrators of coercion intimidate victims by creating fears, credible to the victim, of disastrous consequences if they do not obey or acquiesce to the abuse. This creates a great deal of anxiety and fear.

# Documenting trauma

**It is normal for a survivor of severe trauma to:**

- Be unable to provide linear account
- Avoid memories
- Have difficulty remembering dates, details
- Changing the trauma account
- Increase level of details with trust, good questions, increased stabilization

Client does not answer telephone

Afraid of talking about past; no energy for social conversations

Client does not show up on time

Afraid of interview; depleted emotional & physical energy

Client does not show up at all!

Forgetful because of trauma; can't face interview

Client reluctant to reveal info

Talking means re-living it for days; difficulty trusting

**Sometimes  
symptoms  
are not  
reported  
but show  
up in their  
behavior**

**Ask about functioning before and after the traumatic experience**



Acknowledge

Acknowledge person's courage

Help

If possible, help person identify ways s/he can feel safe after the interview

Observe

Observe how you feel after hearing about the trauma and what do you need.

# Ending the interview

# Resources

<https://www.youtube.com/watch?v=05Z95q1bkG4>



# Pre-viewing questions

- What red flags would lead you to suspect workplace violence, gender violence, sexual violence. (This scene will help you understand how there can be a synergy of destabilizing factors in play at the workplace.)
- What are some of the potential challenges a worker in housekeeping or janitorial professions might face? Are there risks specific to female workers in janitorial/housekeeping positions?
- What potential workplace problems can arise if partners (such as husband and wife) work for the same employer?
- Do workers with children face special challenges? What issues might a worker with small children think about during her workday?

# Follow-up questions

- *Signs of violence*
- *Dynamics*
- *Special Vulnerabilities*



# “Beatriz”

<https://www.youtube.com/watch?v=n7tqnJCmplc&list=PLTifzqDcaHT3XFuM9XxE0mGSFh3wZtI6&index=3>

Jennifer Cooley

# Documenting cases

Lauren Bonds

# Documenting cases of sexual violence

- Strength of the Legal Claim Depends on Strength of the Evidence
- When assisting workers w/ potential claims, think about what they need to show to make out a case:
  - Severe or Pervasive:
    - Severe: Documents from hospital visit?
    - Pervasive: Notebook to write down every comment, or tell the worker to text you every time they are touched, are told an offensive statement

# Documenting cases of sexual violence (Contd.)

- Employer Knew or Should Have Known:
  - Record meetings w/ supervisor where complaints are made (if allowed in your state), take pictures of documents/complaints you file with HR
- Help collect anything that Supports Your Case:
  - Witnesses?
  - Cameras at the worksite that could have captured incident?
  - Inappropriate text messages?

# VIOLENCE IS VIOLENCE

- Sexual violence and assault in the workplace *is a form of sexual harassment*
- Title VII of the Civil Rights Act of 1964 prohibits race, color, sex, national origin and religion discrimination; **Equal Employment Opportunity Commission** investigates and litigates
- Sexual Assault criminal action: target abusers, criminal justice
- Sexual Harassment civil lawsuit: **target is company for \$\$ and changes in company practices**

# Vulnerable workers: Priority for EEOC

- Immigrant, Migrant, and Vulnerable Workers priority under the National Strategic Enforcement Plan-since 2012
- Agriculture, service industry, restaurant, janitors
- Need to collaborate with public interest groups, advocates; ***sexual assault program staff may be the “first line” to identify harassment***



# Remedies

- **Monetary (\$)**

- Remedy is \$ for victims of harassment (backpay, reinstatement, compensatory damages (*emotional distress, pain and suffering*), *punitive damages, \$300k CAP*)
- Remedy may also include \$ for those who were retaliated against as witnesses

- **Non-monetary**

EG. New company policies to encourage complaints without fear of retaliation (as part of court order); bar rehiring of harasser; discipline, termination of harasser

# Selected cases

- ***EEOC v. Tanimura & Antle***: rapes, \$1.855 million settlement (California Rural Legal Assistance)
- ***EEOC v. DeCoster Farms***, rapes, retaliation, \$1.525 million (Iowa Coalition Against Domestic Violence)
- ***EEOC v. Rivera Farms***, harassment of 20 women and one rape \$1.0 million
- ***EEOC v. Harris Farms***, multiple rapes of farm workers, nearly \$1.0 million verdict (Lideres Campesinas, rape crisis center)



# Selected cases

- ***EEOC v. ABM***, sexual harassment of 20 female janitors, one raped, \$5.8 million settlement
- ***EEOC v. National Food Corp.***, forced oral sex of poultry worker, \$650,000 (Columbia Legal Services)
- ***EEOC v. Monterey Gourmet Foods***, same-sex harassment, retaliation \$535,000 (California Rural Legal Assistance)
- [www.eeoc.gov](http://www.eeoc.gov) for more cases

# POLL

## Filing charges

# Filing the charge

- Charge notifies EEOC to investigate; [www.eeoc.gov](http://www.eeoc.gov); mail, walk-in, letter from advocacy group
- ***Third Party Charge*** (advocacy group, church, union, etc.)
- Commissioner's charge
- **Class members:** EEOC can gather information regarding named and unidentified class members if CP alleges that there's a class of workers similarly situated
- Charge must be filed within 180/300 days of last act of harassment

# Filing the charge, investigation

- Information from claimant (and her counsel) to investigator is **not covered** by confidentiality privilege
- ***Lawyer for Employer shares no privilege with EEOC investigator***
- All **factual information** given to EEOC during investigation can be discovered in litigation
- (BUT in EEOC ***lawsuit***, Trial Attorneys share ***quasi-attorney-client privilege*** with Charging Party)

# Key issues in EEOC investigation

- Did harassment occur?
- Did Charging Party (CP) complain to a supervisor? HR?
- Did the employer fail to protect the employee from harassment? Why?
- Is harasser the top official? Nowhere for CP to go?
- Did employer or its agents threaten CP if and/or after she complained???

# Proving harassment

- **Charging Party: is she credible?** (Do not assume that CP is lying.)
- Emotionally upset? Crying? (Caveat: no one way for rape victims to react)
- Describes details? Physical touching, grabbing? Frequency?
- Verbal harassment? What was said?
- Any threats by harasser? Manager? Co-workers? Human Resources? Discouraged from complaining?

# Proving harassment

- Post-Traumatic Stress??
- Any physical injuries? What? Medical treatment?
- Need ongoing medical or psychological treatment??
- Evidence bolsters credibility to establish liability and damages
- This evidence could also support claim for ***compensatory damages*** (emotional distress, pain and suffering) (***sexual assault program staff could be key witnesses***)
- **See *EEOC v. Willamette Tree Wholesale*; examination by and testimony of psychologist Dr. Fabiana Wallis and therapist documented trauma caused by multiple rapes and threats to kill farm worker and her family**

# Proving harassment

- **Harasser:** is he credible? Who supports his story? Any prior complaints of harassment?
- **What did company do??** Was harasser previously disciplined or not? Position in company – supervisor, manager, co-worker, owner? Company officials ill-trained to handle issue? Did they retaliate?
- Note: during EEOC investigation agency will obtain personnel file and records of previous complaints



# POLL

Documenting the case

# Proving harassment

- **Corroboration through Witnesses:** co-workers, supervisors, actual eyewitnesses? Note: Most egregious harassment happens “behind closed doors”.
- **Counselors, doctors: what was observed? What did claimant say? Injuries? Treatment?**
- Parents, spouse, other relatives,
- Other harassed individuals? Did CP complain to anyone about the harassment? What was said? Evidence could support victim’s credibility.

# Proving harassment

- **Cops:** Was police report filed? (non-conclusive);  
Note: less than 10% of sexual assault crimes are reported
- **Compare:** “beyond a reasonable doubt” v. “by a preponderance of the evidence, i.e. 51%”
- ***EEOC v. Harris Farms*:** 3 Rapes by supervisor;  
Deputy sheriff: “victim is lying”; Jury: “we believe her and here’s \$1 million”

# **Building partnerships**

# Lideres Campesinas' approach





# Key questions to consider in outreach and prevention with immigrant communities

- What are the priorities in the community? What can you do to support the community in addressing these priorities?
- Who are the natural leaders in the community?
- How can you partner with these leaders to support their efforts? Who in your community is currently engaging immigrant survivors?
- What do your outreach efforts currently look like? Who are you reaching? Who are you missing? How can you strengthen your current efforts to reach communities that may be under-served?

# An unusual team





# Changing workplace culture

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

# Resource List

Advocates can use the following resources when working with employers to improve workplace prevention and response to sexual violence. Many of the resources listed are tailored to the response and prevention of domestic violence. However, they include aspects of sexual violence and can be adapted and applied to sexual violence prevention and advocacy within the workplace. Advocates can share many of these resources with employers to help inform their policies and violence prevention plans.

## Websites

[https://www.nsvrc.org/sites/default/files/publications\\_nsvrc\\_resource-list\\_sexual-violence-workplace.pdf](https://www.nsvrc.org/sites/default/files/publications_nsvrc_resource-list_sexual-violence-workplace.pdf)

- American Bar Association Commission on Domestic and Sexual Violence
- ASISTA
- California Rural Legal Assistance, Inc., Farmworker Sexual Violence Technical Assistance Project
- Centers for Disease Control and Prevention (CDC)
- Corporate Alliance to End Partner Violence
- Domestic Violence and Sexual Assault Project SURVIVE
- Centers for Disease Control and Prevention, Injury Prevention & Control: Data & Statistics (WISQARSTM)
- Futures Without Violence
- Legal Momentum-The Women's Legal Defense and Education Fund
- Lideres Campesinas
- Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health (NIOSH)
- National Sexual Violence Resource Center (NSVRC)

# What is ahead?

- **Thursday, March 8, 2018 - 1:00pm - 2:30pm EDT: “Assessing possible legal remedies for immigrant survivors”**
- In this webinar, speakers will discuss the array of possible legal options for immigrant survivors of sexual violence in the workplace, including challenging labor violations, gaining immigration status, and other civil and criminal system options. We will look at options in the context of a union organizing campaign and in a workplace covered by a bargaining agreement.
- **Registration link:**  
<https://register.gotowebinar.com/register/8650692893347243267>

# Thank you for your participation!

- Link to ASISTA national webinars:  
<https://youtu.be/GZqFsw8XWTs>