

HOW TO SCREEN FOR AND RESPOND TO SEXUAL VIOLENCE IN THE WORKPLACE

MERCEDES V. LORDUY
VIDA LEGAL ASSISTANCE, INC

JUNE 26-28, 2013
PROVIDENCE RI

- ▶ This project was supported by Grant No. 2011-TA-AX-K002 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.
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GOALS AND OBJECTIVES

- ▶ Recognize and evaluate the implications of sexual violence in the workplace
- ▶ Identify and examine the response to sexual violence in the workplace

WHAT IS SEXUAL VIOLENCE?

- ▶ Physical
- ▶ Verbal
- ▶ Innuendos
- ▶ Language
- ▶ Images

CASE STORIES

LARGE GROUP DISCUSSION

TYPES OF SEXUAL VIOLENCE DEFINED

- ▶ Actions taken by business owner, someone in a supervisory role, even a co-worker
- ▶ Physical Abuse:
 - ▶ Unwanted sexual touch
 - ▶ Touching someone in a sexual manner
 - ▶ Hitting someone in a sexual manner
 - ▶ Forcing someone by threat or coercion to perform a sexual act without their consent
 - ▶ Forcing someone to watch a sexual act
 - ▶ Exhibitionism
 - ▶ Rape

TYPES OF SEXUAL VIOLENCE DEFINED (CONT'D)

- ▶ Verbal
 - ▶ Descriptive words when referring to someone or their body parts
 - ▶ Requests for sexual favors – conditioning employment opportunities upon the submission of sexual favors
 - ▶ Inappropriate language that makes the recipient or those around them uncomfortable
- ▶ Innuendos
- ▶ Language

TYPES OF SEXUAL VIOLENCE DEFINED (CONT'D)

- ▶ Images
 - ▶ Pictures
 - ▶ Drawings
 - ▶ Calendars
 - ▶ Computer screen images

PERPETRATORS OF WORKPLACE SEXUAL VIOLENCE

- ▶ Foreman, supervisors, farm labor contractors, company owners
 - ▶ Anyone who possesses the power to hire and fire workers and give certain benefits.
- ▶ Co-Workers who work in an environment where sexual abuse is tolerated
- ▶ Clients or Customers
- ▶ Perpetrator can be of the opposite sex or same-sex

CONSEQUENCES OF WORKPLACE SEXUAL VIOLENCE

- ▶ Creates a hostile or offensive working environment
- ▶ Creates intimidation in the workplace
- ▶ Alters the work environment
- ▶ Can change lives

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

- ▶ Prohibits discrimination on the basis of race, color, sex, national origin and religion
- ▶ Sexual harassment is a form of sexual discrimination
- ▶ Employers have a duty to provide a safe work environment and to take prompt and corrective action once the employer is on notice that harassment may have occurred

TITLE VII PROVISIONS

- ▶ Applies to employers with 15 or more employees, state or local governments, employment agencies and labor organizations and the federal government
- ▶ Behavior must be “severe or pervasive enough to alter an employee’s working conditions”
- ▶ Harasser can be
 - ▶ Victim’s supervisor, or in supervisory position
 - ▶ Agent of the employer
 - ▶ Co-worker
 - ▶ Non-employee

HOW TO FILE A CHARGE WITH EEOC

- ▶ Must first give the employer notice that the harassment is occurring
- ▶ Victim should tell perpetrator that the behavior is unwelcome and must stop (opposition)
- ▶ If the perpetrator is the Supervisor, then the victim should go to a manager or any person that may be in a superior position
- ▶ Verbal or written notice
- ▶ Third party can give notice on behalf of the victim

PROVING SEXUAL HARASSMENT

- ▶ Corroboration through witnesses
 - ▶ Co-workers, supervisors, counselors, advocates, parents, doctors, psychologists, eye-witnesses, friends
 - ▶ Change in the victim's (charging party) behavior
 - ▶ Appearance after the assault
 - ▶ Other incidents involving other co-workers
 - ▶ Response of employer to other reports
 - ▶ Acts of retaliation against charging party or complainant
- ▶ Harasser's actions
- ▶ Employer's actions

PROTECTIONS WHEN FILING A CLAIM UNDER TITLE VII

- ▶ Employer may not take adverse action in retaliation for the following:
 - ▶ Filing a charge
 - ▶ Testifying
 - ▶ Participation in a discrimination proceeding, investigation or litigation
 - ▶ Taking action or in any way opposing discrimination
- ▶ Adverse actions include
 - ▶ Firing
 - ▶ Demoting
 - ▶ Refusal to hire
 - ▶ Denying a promotion
 - ▶ Making threats

WHO CAN FILE A CHARGE WITH THE EEOC

- ▶ U.S. Citizens
- ▶ Immigrant workers
 - ▶ Documented and Un-documented workers
 - ▶ Immigration status is not a factor
 - ▶ Non-citizens
- ▶ Third Parties
- ▶ EEOC Commissioner
- ▶ EEOC District Director

STEPS TO FILING A CHARGE

- ▶ A charge must be filed within 180 days of the discriminatory act (unless there is reasonable cause)
- ▶ Investigation
- ▶ Resolution
 - ▶ Back pay
 - ▶ Disciplinary action against the harasser
 - ▶ Conciliation
 - ▶ Punitive or compensatory damages
 - ▶ Other

IMMIGRATION RELIEF AVAILABLE

- ▶ Immigrant survivors of sexual violence in the workplace may be eligible for immigration relief under the Violence Against Women Act (VAWA)
- ▶ Survivors who file a charge with EEOC or law enforcement may be eligible for a U-Visa if they are victims of a crime enumerated in the statute, are “helpful” in the investigation of the criminal activity, and they suffered substantial injury as a result of the criminal activity

STATISTICS

- ▶ Farmworker women - 80% of Farmworker women in California's Central Valley indicated they had experienced sexual harassment – *Examining the Sexual Harassment Experiences of Mexican Immigrant Farmworking Women**
- ▶ In 2011, there were 11,364 charges of sexual harassment filed with the EEOC, 84% were filed by women**

* Morales Waugh, Irma, "Examining the Sexual Harassment Experiences of Mexican Women," Violence Against Women, January 2010, 11.

**Sexual Harassment Charges - EEOC & FEPA's Combined: FY 1997 - FY 2011

http://www1.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment.cfm

RESPONSES TO SEXUAL VIOLENCE IN THE WORKPLACE

- ▶ Advocates, attorneys and medical personnel should be aware of the rights of victims of sexual violence
- ▶ Service providers working with victims of sexual violence should be aware of the procedures for filing a charge with EEOC
- ▶ Cultural competency
- ▶ Language interpreters

CASE STORY

LARGE GROUP DISCUSSION

BARRIERS FACED BY IMMIGRANT SURVIVORS

- ▶ Fear of reporting for fear of losing job
- ▶ Fear that her partner will not believe her
- ▶ Fear of deportation
- ▶ Cultural stigma, shame and isolation
- ▶ Peer pressure or cultural pressure
- ▶ Fear of rejection from family, friends, and co-workers
- ▶ Lack of knowledge of rights and available resources in the community such as social services available
- ▶ Lack of knowledge of US legal System
- ▶ Language barriers

WORKING WITH VICTIMS OF SEXUAL VIOLENCE IN THE WORKPLACE

- ▶ Crisis intervention
 - ▶ Provide support, resources, information
 - ▶ Safety planning
- ▶ Safety planning throughout the delivery of services
- ▶ Emotional recovery
 - ▶ Therapists
 - ▶ Psychologists
 - ▶ Help the survivor develop a support system (family, friends, case worker)
- ▶ Factors to keep in mind
 - ▶ The harasser will have access to the victim's personal information available through the personnel file

COMMON RESPONSES TO SEXUAL VIOLENCE BY SURVIVORS

- ▶ Fear and anxiety
- ▶ Depression and sadness
- ▶ Anger
- ▶ Guilt, shame, self-blaming
- ▶ Emotional swings
- ▶ Negative thoughts
- ▶ Relationship difficulties
- ▶ Physical pain and health problems
- ▶ Flashbacks, intrusive memories of the attack(s)

WORKING WITH IMMIGRANT SURVIVORS

- ▶ Understand the common responses that survivors may experience
- ▶ Understand the dynamics of sexual violence and how they impact immigrant survivors
- ▶ Understand cultural responses and ensure services are culturally appropriate
- ▶ Ensure interviews are conducted with an interpreter when necessary
- ▶ Ensure services are accessible – conduct outreach at all levels
- ▶ Ensure you are non-judgmental (remember you may be the first person the survivor confides in, your reactions will determine whether the survivor continues to seek assistance and recovers)
- ▶ Validate the survivor's feelings and experiences

WRAPPING IT UP

- ▶ Understanding sexual assault and sexual violence is the first step in identifying when it occurs
- ▶ Identifying resources and partners in the community will help in guiding the survivor to services and recovery
- ▶ Understanding the immigrant community in the area you work will help you assist the survivor in developing a safety plan and a plan of action
- ▶ Always remember... you may be the first person the survivor confides in, be prepared to listen

RESOURCES

- ▶ National Immigrant Women's Advocacy Project (NIWAP) - <http://niwaplibrary.wcl.american.edu>
- ▶ National Sexual Violence Resource Center – www.nsvrc.org
- ▶ Equal Employment Opportunity Commission – www.eeoc.gov