

The Holistic Representation Model

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CHAPTER



A primary goal of this manual is to promote the holistic representation model. We strongly believe that simply handling sexual harassment cases as legal technicians on behalf of farmworker women is not enough. Rather, farmworker advocates must provide services to clients that take into account the many issues and obstacles women face as they choose how to respond to sexual violence in the workplace. The legal component will be but one of the many factors that will face these women. This manual highlights various non-legal real-life issues that female farmworkers confront as they deal with sexual violence at work and as they weigh their options.

We have prepared a few charts in this manual to help advocates better understand the many issues that farmworker women think about and deal with as they determine whether to pursue criminal or civil remedies for the sexual violence perpetrated against them. These issues include concerns for their safety, fear of law enforcement, economic insecurity, and reliance on their employer for housing and transportation. For these women, their fears are not quieted once they decide to take action. Rather,

they often feel that they must choose between seeking justice for the harms inflicted on them or the ability to feed their families. Based on our clients' experiences and their feedback, we firmly believe that we must be holistic in our approach to representing farmworker women who experience sexual violence in the workplace regardless of the particular role that we play, whether as the attorney, the activist, or the health care provider.

“My attorneys did a very good job of keeping me informed and making sure I understood what was going on. Before the attorneys, the community advocates helped. We should all encourage women to come forward with their sexual harassment cases. In a lot of cases, women are afraid of telling their husbands what is happening and women should be told to defend themselves.”

In our experience, a successful holistic approach means building a team of attorneys and advocates addressing the wide range of issues that farmworker women face after suffering sexual harassment. This does *not* mean that a farmworker legal services office should assume the

responsibility for providing medical care any more than it means that a health provider should attempt to provide legal services. Ideally, each member of the team — the legal services provider, the health care provider, law enforcement, counselors, housing advocates, religious based groups and others — will have knowledge of the types

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of services provided by other community members and work towards coordinating assistance as much as possible. We understand that in the rural areas that we serve many of these necessary services simply are not available or are not accessible. A first step in these areas is to identify the gaps in services and take steps to create or bring in additional groups and resources to meet those needs.

Many of these women have suffered greatly. Their bodies and their souls have been ravaged by sexual violence in the workplace. A holistic approach maximizes the possibility of both successfully resolving the legal issues while also allowing farmworker women to move towards healing.

Issues Facing Female Farmworker Victims Of Sexual Assault In The Workplace

i. Safety

Claudia³ was raped by her supervisor. She was frightened. She was ashamed. She was afraid for her children and for her husband. The rapist told her that he would kill them if she told anyone. Too afraid to disclose what happened to her, Claudia remained silent and endured the continued sexual violence.

Safety is a primary concern for farmworker women who have been the victims of sexual violence at work. The women who experience sexual propositions and unwanted touching are afraid that the situation will get worse. Given the cycle of violence, where tension begins to build and eventually results in more serious forms of violence, it is legitimate that a woman would fear that the sexual harassment could escalate to rape. This real possibility supports their insecurity and fear. Thus, many farmworker women fear that they will be sexually assaulted, if they have not already been, or that the sexual assault will escalate to rape. Ultimately, the women fear that the perpetrators will continue to sexually, physically, and emotionally abuse them.

Farmworker women who live in migrant labor camps (commonly referred to as farmworker camps, migrant camps or labor camps) are particularly vulnerable to sexual violence because they typically do not have their own transportation, they are not rooted in the community, and the migrant camps often do not have telephones for farmworker women to make emergency phone calls if they are in danger. Assaultants readily take advantage of these vulnerabilities.

Farmworker women who have experienced sexual harassment or sexual assault in the workplace are not only more vulnerable to sexual violence, but they are also more fearful because they do not feel safe at work or in their homes. Often entire crews of workers live in the same labor camp along with their supervisor, or near the premises of the farmer. This shared living space gives the perpetrators constant access to these women. The Agricultural Worker Protection Act requires that agricultural employers comply with applicable federal and state health and safety provisions.⁴ One

³ Please note that these scenarios have been adapted from discussions with farmworker women. The names and some of the facts have been changed to protect the identities of the women whose experiences we are sharing. They are included in this chapter for illustrative purposes.

⁴ 29 U.S.C. § 1823(a)(2008).

requirement is that agricultural employers provide separate bathroom facilities for men and women⁵ in camps where bathroom facilities are shared. Though this is the case, farmworker women are still at risk for voyeurism, exhibitionism, and other forms of sexual assault. Therefore, they are constantly on edge and at risk for further sexual violence.

This fear is real and their concern well-founded. In an isolated labor camp, the possibilities are limited for them to get help or protect themselves when they do not have access to a phone to make an emergency call. Often, they do not have transportation to go to the police station, they probably do not have any other connections in the community to seek out help, and they likely know very little about any resources available to help them. Therefore, these women feel, and often literally are, trapped. Hence, they are exposed to great risk for continued violence.

Aside from fearing for their own personal safety, these women also fear for the safety of their family members, friends, and other loved ones. When they are working alongside their family members, spouses, or other loved ones, they are afraid that the perpetrator will take action to hurt those people if the woman discloses the sexual violence. This fear stems, many times, from threats made by the perpetrator. The perpetrator will tell the woman that if she tells anyone about what is happening to her that he will kill her, her spouse, her children, etc. These women also fear that if their loved ones find out about the violence or harassment that their loved ones will take action against the perpetrator. Consequently, their loved ones will be in danger and potentially run the risk of having criminal charges lodged against them for taking the law into their own hands.

Thus, when a farmworker woman is being sexually harassed or sexually assaulted at work, it is important to discuss a safety plan with her. She must know that she could call law enforcement if she is in danger and that measures can be taken, like getting a civil protective order, to help keep her safe. When discussing the possibility of reporting the crime to the police, it is important to address any risks that she might be exposed to by reporting the crime, particularly if she is undocumented. (See item 5 below for a discussion of working with law enforcement.) In addition, she should be given the contact information for a rape crisis program or victim services provider who is knowledgeable about sexual assault.

The situation becomes increasingly difficult when she does not feel that she can take any action to protect herself because she is afraid that she will be fired or because she is afraid of law enforcement. When a farmworker woman expresses these fears, it is very important that you take her concerns seriously and address them. Failing to discuss these concerns could result in re-victimization and cause her more harm.

It is also important to provide her with the appropriate emergency numbers, and support her as she considers filing criminal charges. Given her economic situation, her immigration status, or other factors, she might decide that she cannot take any action. She may very well decide that she must endure the treatment or that she would rather quit her job to avoid further violence or having to take any affirmative action to stop it, like reporting sexual harassment to her supervisors at work.

⁵ 29 C.F.R. §1910.142(d)(4)(2008).

2. Housing

Elida is a farmworker woman who was recruited from Florida to work in another state. When she arrived at her new worksite, her crewleader gave her a housing assignment: she was forced to live in a house full of men whom she did not know. Shortly after her arrival, Elida was drugged and raped. She believes that it was her housemates that raped her. She cannot be sure exactly who or how many men were involved. Elida tried to get help. Her supervisor and her male co-workers sneered at her and laughed. Elida fled from her camp. She consequently became homeless in New York — far away from where she was recruited.

Farmworker women who face sexual violence in the workplace worry that they will lose their job and their home if they report the sexual harassment or sexual assault. This fear arises particularly when they are living in migrant farmworker camps and are dependent on their employer for these quarters. They do not want to be considered trouble-makers for complaining because they can not afford to be fired for “causing problems.” For them, losing their job would mean losing the right to continue living in the camp.

This fear is heightened when they are recruited to work in a different country or in a different state. In the situation of agricultural guest workers, they often pay large visa and recruiting fees for the opportunity to come to work legally in the U.S. Few guest workers are willing to make any kind of complaint because they do not want to lose the money they paid to come on a visa. They also do not want to get sent back to their home country. Even worse, they do not want to get black-listed from ever being able to return to work in the U.S. on a guest worker visa again. For this reason, they put up with horrendous working conditions, among them sexual violence at work. Where the women have been recruited within the United States to work in a different state, the situation is still difficult and the risk is great. Like Elida, complaining about sexual violence could mean that they would lose their housing in a foreign place. These women are hundreds of miles away from their homes and, often, from anyone else that they know. Reporting the sexual violence that they are experiencing could result in further violence, firing, and homelessness in a place where they have no community network.

Aside from guest workers and migratory workers, other farmworker women also fear that they will lose their homes if they report sexual violence to their employer. They fear that they will lose their job and be unable to pay their rent. When they live in migrant farmworker housing in states where year-round agriculture is common and year-round housing is provided through farmworker housing programs, these workers worry that they will lose the opportunity to continue living in these houses if they lose their job because there is often a requirement that the residents, or at least one member of the household, actively work in agriculture. In the case of a single mother living in agricultural housing, losing her job, and possibly getting black-listed for being a trouble-maker, could also cost her the ability to live in more affordable farmworker housing.

Given these situations, attorneys and advocates must assess what options are available in your area to help a farmworker woman relocate. Farmworker women must not feel that they are unable to leave the situation because they will be without a home.

Attorneys and advocates must also work together to create a plan to help a victim who finds herself homeless. For example, it is important to identify whether a local shelter has an interpreter on staff and, if not, identify what steps would be taken to help a limited English proficient individual. It is very important to establish a relationship with the local rape crisis center, immigrant women's organizations, and other social services agencies in your area to familiarize yourself with the resources available to help a farmworker woman who needs relocation assistance or who has become homeless because of sexual violence in the workplace.

3. Health

Gloria was a very happy woman before she was sexually harassed at work. She had a loving husband and a wonderful child. She had married the love of her life. However, after she began to experience sexual harassment at work, she was tormented. She could not sleep. She was depressed. She was anxious. She was afraid. She became withdrawn. Her husband and her child did not understand what was wrong with her because she cried all of the time. She wanted to die.

Female farmworkers who have suffered sexual violence at work may experience serious health consequences. (Chapter 7 of this manual provides more information regarding the health consequences that sexual harassment and sexual assault have on individuals.) From the outset it is important that advocates consider the health needs of their clients. They may need to go to the emergency room immediately to have a rape-kit administered. (See chapter 8 *infra* for more information.) They may need treatment for a sexually transmitted infection. They might have broken bones or other physical injuries. They may be experiencing depression, anxiety or other mental health consequences because of the sexual harassment or sexual assault.

Advocates must create relationships with the health clinics and medical providers in their area so that they will know who to refer an individual to in this situation. The deep physical and mental wounds inflicted upon these women need to be addressed so that they can begin to reclaim their lives. Legal advocates should also understand that this history of medical treatment will become part of the evidence used to prove the extent of damages suffered by the farmworker woman as a result of the sexual harassment.

4. Spiritual/Religious Needs

Geneva did not think that she would be strong enough to survive the sexual violence by her supervisor. She talked to community members who told her that she had rights and that she could take action against the company for not protecting her from the violence. She did not feel that she would be strong enough to sue the company. Her faith is what helped her during this difficult time.

Guilt, self-blame, confusion, loneliness and a myriad of other feelings present themselves after someone has experienced sexual violence. In some cultures, including in mainstream America, seeking professional help from a psychologist or a psychiatrist is still not widely accepted. Some individuals prefer seeking out individuals from their religious community in order to deal with the problems that they are experiencing. Advocates should understand that a female farmworker may not readily seek out a

medical professional to help her address the sexual violence that she has experienced. She may, however, be open to talking to a member of her religious community. Many states have farmworker ministries or connections with organizations that offer religious or spiritual services to the farmworker community. Advocates should familiarize themselves with these services and should reach out to these leaders to make a plan for helping farmworker women who have been sexually harassed or sexually assaulted at work.

5. Working with Law Enforcement

Veronica did not have much trust in the police. Her supervisor told her that the police would never believe her if she reported him for sexual assault. He told her that they would deport her if she ever tried to press charges. She made the decision to report him when advocates told her that they would help her.

Many immigrants are afraid to go to the police when they have been victims of a crime. In the case of migratory workers, they might not have access to a phone or to a ride to report the crime. They might not even know that what they experienced is a crime or that they have any rights in the face of this crime. Others know that they have rights but they fear the police because they are undocumented. Some are afraid because they do not have faith in the police based on their experiences in their native country. Still others have heard about bad experiences that others have had when they went to the police. Some people that they know may have been ignored, treated badly or they were not believed. For these reasons and others, immigrant women who have been victims of sexual violence very seldom report the crime to the police.

Attorneys and advocates must work with law enforcement to educate workers about their rights and about reporting crimes. Law enforcement, attorneys and advocates must be familiar with the remedies available to immigrant victims of crimes (see *infra* Chapter 9 for more information). However, attorneys must address the immigration concerns. If the attorney or the advocate is not an immigration expert, you should consult with an immigration attorney about any possible implications that reporting a crime might have for the victim.

Aside from addressing the concerns that these women have about making reports to law enforcement, attorneys and advocates must also determine how involved they are going to be in the criminal component of these cases. Will your office help someone call the police? Will they go to the police station with them to file the police report? Advocacy offices need to create a plan to determine who is best equipped to help support the farmworker woman through the criminal process. It is very possible that your office might determine that referring the survivor to a rape crisis program or victim services provider is the best option for handling the criminal component because the victim advocate can help the individual file the police report. Whatever the case, your agency must think through the criminal aspect to determine how to handle the situation when it presents itself.

TIP: Advocates should not serve as the interpreter for an individual when they are filing their police report or talking to the police. Doing so could turn the advocate into a witness and the advocate could be called to give testimony about what the victim has said if the state decides to prosecute. Therefore, advocates should arrange to have a neutral interpreter or should insist that the police department have an interpreter on hand.

Conclusion

There are many other issues that confront farmworker women who have been victims of sexual violence in the workplace. We have attempted to highlight a few of them here and in the charts in this book. Some of these issues will be discussed in greater detail within this manual. This chapter is not meant to be exhaustive. It is meant to flag some of the issues an individual might confront. Each individual brings with her a unique set of concerns and circumstances. The most important point of this chapter is that we must implement a holistic representation model in our work. Through our work and through conversations with farmworker women we have learned that these women need us, their attorneys and advocates, to work as a team to support them as a person, as whole human beings, as they navigate the legal system while meeting their basic needs.

FARMWORKER VICTIM OF SEXUAL HARASSMENT

COUNSELING

- Individual
- Family
- Psychologist

MEDICAL CARE

- Rape Kit
- Treatment for STI's
- Mental Health
- Natural medicine/home remedies/curas

SAFETY NEEDS

- Safety plan
- Protective Order

EMPLOYMENT DISCRIMINATION
CHARGE/LAWSUIT

CRIMINAL PROCEEDINGS

WORKER'S COMPENSATION

UNEMPLOYMENT

HOUSING

SPIRITUAL NEEDS

RELOCATION

EMPLOYMENT

IMMIGRATION REMEDIES

FOOD

VICTIM'S ASSISTANCE

SOCIAL/CULTURAL NEEDS

FAMILIAL NEEDS

INTERPRETATION NEEDS



¹ This chart is meant to illustrate some of the obstacles and concerns that some farmworker women have experienced as a result of sexual harassment or sexual assault in the workplace. These lists are not exhaustive and are not meant to suggest that every farmworker victim of sexual harassment or sexual assault experiences the same symptoms, side-effects, pressures, or concerns.