Health Care Considerations For Farmworker Victims Of Sexual Violence In The Workplace And Their Advocates

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CHAPTER 7

Introduction

Sexual harassment has devastating consequences for the victim. Consequences of the harassment may include physical or psychological trauma or both. Survivors of harassment may suffer severe mental and physical health consequences even if they are not raped or assaulted by the harasser. This chapter informs advocates, who may have not dealt extensively in the field of sexual assault advocacy, how to respond appropriately to individuals who have been assaulted in the workplace. Given the myriad of dynamics related to sexual harassment and the detrimental impact on the victim, advocates need to educate themselves in appropriate response practices to avoid further trauma to their clients and themselves.

> To start, I suffered depression. [I had been] very happy and did not know what it was to be nervous and afraid. My mind was never focused on what I was doing. When my daughter talked to me, I did not answer, and she would ask me if I was sick. It was torture to go through what I went through every day with that man.

Mental And Emotional Injuries

Survivors of sexual harassment and rape may experience a vast array of mental and emotional injuries. These injuries include stress, fear, depression, anxiety, nausea, withdrawal, thoughts of suicide, and other signs of trauma. Survivors may suffer from post-traumatic stress disorder or other types of trauma which entail many of the above symptoms. While these symptoms subside with time, some may afflict the survivor for prolonged periods.

Continued fear and anxiety resulting from sexual harassment or assault can significantly affect the survivor's life, including her work, school and relationships with others far into the future (Ledray: 1999).[4] Burgess & Holmstrom summarized and labeled the psychological impact of rape as Rape Trauma Syndrome.[5] The psychological impact and treatment needs of survivors have been addressed

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4 Linda E. Ledray, US Department of Justice, Office of Victims of Crime, Sexual Assault Nurse Examiner (SANE) Development & Operation Guide (1999).

5 A. Burgess & L. Holmstrom, *Rape Trauma Syndrome,* 131(9) American Journal of Psychiatry 981-985 (1974).

extensively in the psychological literature, a review of which is beyond the bounds of this summary. Self-help books, such as *Recovering From Rape*[6], are available for the large majority of rape survivors who do not return for counseling.

Family, friends, co-workers and community members of a survivor of sexual harassment or assault may also experience their own health consequences. Family members and friends of the victim may experience anger or feelings of guilt for being unable to help their loved one.[7] They may also suffer from the withdrawal of the survivor from her family and community as a result of the harassment or assault.

Co-workers and community members may experience a gamut of emotional responses by the victim — from avoidance to short temper, emotional outbursts or rage. In workplace-related sexual harassment or assault, co-workers may feel personal guilt for not protecting the survivor. They also may experience fear that something similar will happen to them particularly if they report the problems.

Since health implications caused by sexual harassment and assault extend beyond the survivor, family members, co-workers and community advocates must acknowledge and address the full range of health consequences when working with a sexual harassment or sexual assault survivor. Ignoring or marginalizing the scope of pain, the trauma or the medical concerns of the survivor can result in further victimization. Discounting the physical and mental consequences of sexual assault results in what is considered the "second rape" of the survivor.[8]

Physical Injuries

In addition to emotional injuries, a victim of rape or attempted rape may suffer from bleeding, bruising, tearing, broken bones, scratches, welts, dislocated joints, internal injuries, sore muscles, sprains, or chipped or broken teeth.[9] The myth that most rape victims are physically injured is still widely believed, even though fewer than one-third sustain even minor non-genital injuries which do not require treatment. Fewer than 1% of rape survivors have been found to need hospitalization. Injuries, when they do occur, are more common in rapes by someone the survivor knows intimately, such as a domestic partner, rather than in acquaintance rape situations.[10] While the absence of injuries may prove the lack of force, it does not prove the lack of coercion or threat of physical harm, and it certainly does not prove consent.[11]

6 Linda E. Ledray, *Recovering from Rape* (Henry Holt and Co. 2d ed. 1994).
7 Courtney E. Ahrens & Rebecca Campbell, *Assisting Rape Victims as They Recover From Rape: The Impact on Friends*, J.Interpersonal Violence, 2000.
8 Rebecca Campbell et. al., *Preventing the "Second Rape:" Rape Survivors' Experiences With Community Service Providers*, J. Interpersonal Violence, 2001, at 1240.
9 Patricia Tjadan & Nancy Thoennes, *National Institute of Justice Special Report: Extent, Nature, and Consequences of Rape Victimization: Findings from the National Violence Against Women Survey*, 29 (January 2006), *available at* www.ojp.usdoj.gov/nij.
10 Barbara Moynihan, *Domestic Violence, in Forensic Nursing* 260-270 (Elsevier Mosby ed. 2006); Linda E. Ledray, US Department of Justice, Office of Victims of Crime, Sexual Assault Nurse Examiner (SANE) Development & Operation Guide (1999); I. Bownes, E. O'Gorman, & A. Saters, *A Rape Comparison of Stranger and Acquaintance Assaults*, 31(2) MedSciLaw 102-109 (1991); P. Marchbanks, K. Lui, K. & Mercy, *Risk of injury from resisting rape*, 132(3) American Journal of Epidemiology 540-549 (1990); S. Tucker, L. Ledray, & Stehle Werner, *Sexual Assault Evidence Collection*, Wisconsin Medical Journal 407-411 (July 1990).
11 Tucker, Ledray & Warner (1994).

Genital trauma is another consequence of a rape and attempted rape. It can be useful in determining that recent sexual contact occurred and that force was used. It can also document that the sexual contact was consistent or inconsistent with the history of the assault reported by the survivor.

Sexually Transmitted Disease And Pregnancy

In addition to emotional and physical trauma and injuries, an individual may also experience ongoing assault-related health concerns including sexually transmitted infections (STI).[12] While one study found 36% of the rape survivors coming to the emergency department stated their primary reason for coming was concern about having contracted a STI,[13] the actual risk is rather low. The Center for Disease Control estimates the risk of rape survivors getting gonorrhea is 6% to 12%, chlamydia is 4% to 17%, the syphilis risk is 0.5% to 3%, and the risk of HIV from vaginal intercourse is 0.1% to 0.2% and from receptive anal intercourse, 0.5% to 3%.[14] Though the numbers appear to be low, acquiring sexually transmitted infections is a valid concern for individuals who have been raped.

Since the early 1980s, HIV has been a concern for rape survivors even though the actual risk still appears to be low. The U.S. Center for Disease Control and Prevention estimates that the risk is 1 in 500 nationally.[15] In a study of 412 midwest rape survivors with vaginal or rectal penetration who were tested for HIV in the Emergency Department (ED) at three months post-rape, and again at six months post-rape, not one became positive for HIV. The study also found, however, that even if the survivor did not ask about HIV in the ED, within two weeks it was a concern of theirs or their sexual partner. While the researchers did not recommend routine HIV testing, they recommended that even if the survivor does not raise the issue of HIV or AIDS in the ED, the Sexual Assault Nurse Examiner (SANE) should, in a matter-of-fact manner, provide them with information about their risk, testing and safe sex options. Such information allows the victim to make decisions based on facts, not fear.[16] If antiretroviral post exposure prophylaxis is being considered, an HIV professional should be consulted. (*See infra* chapter 8 for more information on treatment).

Another possible consequence of rape is pregnancy. The risk of pregnancy from a rape is the same as the risk of pregnancy from a one-time sexual encounter, 2% to 4%.[17] Though the risk is minimal, pregnancy is still a serious concern for some sexual assault survivors that should be addressed by their health care provider (See Chapter 8 for more information on treatment).

12 Although commonly referred to as sexually transmitted diseases (STDs), sexually transmitted infections (STIs) is the terminology used by experts. *See generally* American Social Health Association, *at* www.ashastd.org.
13 L. Ledray, *Sexual Assault and Sexually Transmitted Disease: the Issues and Concerns*, *in* Rape and Sexual Assault III: A Research Handbook 181-193 (1991).
14 Center for Disease Control and Prevention, Morbidity and Mortality Weekly Report: Sexually Transmitted Diseases Treatment Guidelines, Number RR-14 (September 24, 1993).
15 Center for Disease Control and Prevention, NHCHSTP-Division of HIV/AIDS, Prevention, Statistical Projections, and Trends (July 31, 1999).
16 Linda E. Ledray, *Sexual Assault Nurse Clinician: An Emerging Area of Nursing Expertise*, *in* 4(2) Clinical Issues in Perinatal and Women's Health Nursing (Linda C. Andrist ed., J.B. Lippincott Co. 1993).
17 A. Yuzpe, R. Smith, & A. Rademaker, *A Multicenter Clinical Investigation Employing Ethinyl Etradiol Combined with DI-Norgestrel as a Postcoital Contraceptive Agent*, 37(4) Fertility and Sterility 508-513 (2004).

Tips for Employment Lawyers When Approaching Clients' Health Care Issues

As an attorney, you may be tempted to focus solely on the legal issues that a sexually harassed client brings to your office. An individual who has been sexually assaulted or harassed in the workplace may have immediate physical and/or mental health care needs. For the health and welfare of the client, the legal advocate, as well as other service providers, must take into account these health needs. Ignoring your client's health care needs may result in working with a client who may not be able to concentrate on the legal issues you think need to be discussed. The attorney who fails to take into consideration the health care needs of the client does so to the peril or detriment of the underlying case.

When individuals initiate a claim for employment discrimination, or any other type of workplace exploitation, they are often principally concerned with fundamentals: Will I be fired? How will this affect my family? Can you make this problem go away? Addressing the health care needs of these individuals and making the appropriate referral is an attempt to help the client heal and in the process help you as well. Once the client has focused on her healthcare needs, she will be in a better position to aid you in the legal process. The process of pursuing civil remedies or pressing criminal charges against a harasser often causes increased anxiety and other stress-related health consequences. In order to help your client through the various emotional aspects of litigation, you should work to ensure that the appropriate professionals are in place to help support your client through the emotional and physical healing process.

In order to determine the appropriate level of care that a client needs, discuss with your client what options may be available to him or her and how each service may be helpful. The client will need to decide whether or not to report a sexual assault to the police and whether or not to undergo a sexual assault forensic medical (SAFE) exam. If your client is facing this choice, provide him or her with information about what will most likely happen if she makes a police report and the basic steps involved in an evidentiary exam. Explain to her the questions she will be asked. Discuss her option of obtaining medical assistance regardless of whether or not she makes a police report. Be familiar with your state's laws about the timing of evidentiary exams and the use of evidence collected.

If your client shares that she is having a hard time getting out of bed or feels afraid, she may be suffering from depression or anxiety related to the sexual harassment or assault. Because of cultural issues surrounding shame or denial in needing mental health care, your client may take offense if you directly suggest that she needs mental health care. Instead, create an opportunity to discuss mental health care options and relay that clients who have gone through similar situations have found a counselor, etc., helpful. Also explain that mental and emotional distress is a key element in damages and that the law recognizes many people experience these difficulties.

Working With Health Care Providers

A person who has been sexually harassed or assaulted at work faces the dual burden of finding both a competent attorney and a competent health care provider. Clients may not know how to locate a doctor, nurse or counselor; the clinic may not be open after work hours or on weekends; medical or mental health care providers may not speak Spanish or an indigenous language; clients may not be able to afford medical or mental health care even if it is available.

Before the client arrives at your office, learn about the resources available in your area. The following are suggested ways to make in-roads with health care, mental health care and social service providers:

Become familiar with the resources available in your area. Resources to look for include:

- Migrant health care clinics
- Low income health care clinics (non profit and state and county clinics)
- State and county mental health care programs
- Women's crisis lines
- Women's shelters
- City, county and state task forces that meet regularly to address sexual assault
- District attorneys' victim's assistance programs
- Hispanic nurses associations

Understand the intake process for each organization, including:

- the types of clients they accept (documented/undocumented, income requirements)
- the geographical areas they serve
- if they have Spanish or indigenous language-speaking staff or interpreters or language line access
- how a person obtains an appointment (must call first, can drop in)

Make personal connections with health care and mental health care providers and agencies:

- Call and see if you can attend a staff meeting to introduce yourself and/or the agency for which you work.

- Ask if there are opportunities to make presentations to medical and mental health care providers in your community regarding how your office can help a person who has been sexually harassed or assaulted at work; educate health care providers about the legal remedies available.

- Attend health fairs for migrant workers and meet the other health care providers attending.

- Collaborate with migrant health clinics who do outreach to labor camps; go together to do outreach.

- Talk about workplace-related sexual harassment and assault as a health care issue to raise awareness and involvement in the medical and mental health care communities.

- Work with health care providers to start looking for workplace-related physical and mental healthcare issues in patient intake and ongoing care.

Protecting Yourself And Your Co-Workers From Burnout And Secondary Trauma

Individuals who work with survivors of trauma, including social workers, attorneys and emergency workers, may also become traumatized consequent to treating individuals who have experienced such horrible situations.[18] This trauma may reveal itself in a number of ways. The most common ways are burnout, secondary traumatic stress, compassion stress, compassion fatigue and vicarious traumatization.

Burn-out

Burnout is "a state of physical, emotional, and mental exhaustion caused by long-term involvement in emotionally demanding situations."[19] Many different types of professionals experience burnout, and it is not related specifically to a particular client's problem or experience.[20] Burnout may take place for many reasons. However, a major cause of burnout is the lack of support for individuals who are performing work under intense circumstances. "When the workplace does not provide adequate social support for health coping, workers may resort to apathetic detachment, cynicism or rigidity."[21]

Many roads lead to burnout, and the impact of burnout is harmful to the advocate and the client. Burnout "...leads to withdrawal into depersonalization of clients and poor service delivery which, along with problematic workplace conditions such as

18 Andrew P. Levin & Scott Greisburg, *Introductory Remarks: Vicarious Trauma in Attorneys*, 24 Pace L. Rev. 245 (Fall 2003).
19 Amy R. Hesse, *Secondary Trauma: How Working With Trauma Survivors Affects Therapists*, Clinical Soc. Work J., Vol. 30, No. 3. (Fall 2002), at 297.
20 Robyn L. Trippany et al., *Preventing Vicarious Trauma: What Counselors Should Know When Working With Trauma Survivors*, 82 J. Counseling & Dev. 32 (Winter 2004).
21 Sharon Rae Jenkins & Stephanie Baird, *Secondary Traumatic Stress and Vicarious Trauma: A Validational Study*, 15, No. 5, J.Traumatic Stress 425 (2002).

work overload or lack of social support, may reduce job satisfaction from personal accomplishment by producing feelings of inadequacy toward the job and clients and a sense of failure that lowers self-esteem."[22]

Some symptoms of burnout include:[23]

- fatigue
- poor sleep
- headaches
- anxiety
- irritability
- depression
- hopelessness
- substance abuse

Secondary Traumatic Stress Disorder

Secondary traumatic stress (STS) can occur in professionals who treat traumatized individuals. It has been defined by some as "the natural consequent behaviors and emotions resulting from knowing about a traumatizing event experienced by a significant other — the stress resulting from helping or wanting to help the traumatized or suffering person."[24] Some people also refer to STS as "compassion fatigue."[25]

The symptoms of STS are similar to those of post-traumatic stress disorder.[26] The difference is that the advocate or counselor is the person who experiences the symptoms based on what their client has disclosed to them about the trauma (the advocate is traumatized by hearing what happened to the client or patient) whereas post-traumatic stress disorder afflicts the client who suffered the trauma.[27] The symptoms that an advocate may exhibit because of STS include nightmares, "hyperarousal" (increased caution or fear) and avoidance.[28] All of these symptoms could cause harm to the client based on the advocate's ability to counsel them.[29] For example, "...secondary trauma affects clients...when a therapist [or other advocate] tries to avoid feelings or topics that produce anxiety, anger, fear or other strong feelings in him or her."[30]

22 *Id.*
23 Levin, *supra* note 8, at 248.
24 Heese, *supra* note 9, at 296.
25 Jenkins, *supra* note 11, at 423.
26 Heese, *supra* note 9, at 296.
27 Jenkins, *supra* note 11, at 424.
28 Heese, *supra* note 9, at 296.
29 *Id.* at 300-303.
30 *Id.* at 301.

Vicarious traumatization

Vicarious traumatization (VT) is a severe form of trauma that an individual can experience as a consequence to helping individuals who have suffered from traumatic experiences. "[V]icarious traumatization occurs only among those who work specifically with trauma survivors...."[31] This trauma can result in serious and lasting changes to the individual. "These changes involve disruptions in the cognitive schemas of counselors' identity, memory system and belief system."[32] Vicarious trauma can cause "extreme sense of loss, self-blame, inability to feel safe and secure for self or others, depression, anxiety or sleep disturbance."[33]

Vicarious trauma can cause many behavioral changes for the individual including detachment from others, avoidance of work and becoming negative, anxious and insecure.[34] While the individual might not completely isolate himself, VT can still impair the individuals relationships, temperament and disposition.

In sum, individuals who work with trauma victims are also at risk for secondary trauma, emotional fatigue and other consequences. Advocates should not only understand the health care needs of their clients but also should seek balance, support, and the life resources to help themselves.

What Can Advocates Do To Prevent Or Cope With Secondary Trauma?

Aside from identifying the fact that service providers can also suffer from trauma as a result of doing such difficult work, it is also important to make a plan to prevent trauma from occurring and to cope with it once the advocate begins to exhibit symptoms of secondary or vicarious trauma. Doing so will ensure that clients receive the best quality representation[35].

31 Trippany, *supra* note 10, at 32.
32 *Id.* at 31.
33 Jean G. McAllister, *The Art of Transformation: Overcoming Vicarious Trauma*, Newsl. Colo. Coalition Against Sexual Assault, Winter 2003, at 1.
34 *Id.*
35 Heese, *supra* note 9, at 303.

Self-care Tips to Help Advocates Prevent or Cope with Secondary or Vicarious Trauma:[36]

- healthy eating
- relax
- exercise
- take time for self-reflection
- maintain strong relationships with family and friends
- set limits on the number of cases you will handle
- create a healthy work schedule and stick to this schedule
- consider seeing a counselor to help cope with what you are experiencing and feeling

Organizations also need to be sensitive to the pressures advocates face when they cope with trauma victims as part of their jobs. The organization should encourage advocates to seek support when working with traumatized individuals. They should also provide an environment where individuals feel supported and encouraged to seek help.

Steps Organizations Can Take to Prevent Secondary Trauma of Their Employees:[37]

1. Be supportive of staff members.
2. Provide training opportunities about dealing with clients who have experienced trauma.
3. Teach staff members about trauma and ways to prevent it.
4. Create a safe and friendly space for employees to openly discuss their experiences and concerns.
5. Provide staff members with the opportunity to interact with others who are doing similar work through membership to groups or professional organizations.
6. Limit the amount of work that the organization accepts so as not to require the staff members to have an extreme workload.

36 *Id.* at 303-304.
37 *Id.* at 305-306.

7. **Respect the boundaries that your staff has created to maintain a healthy life. Everyone understands that emergencies occur but calling staff members at home after hours or on the weekend should be the exception and not the norm.**

Conclusion

All advocates, including legal advocates, must appreciate the health care consequences and needs of individuals who have been sexually harassed or sexually assaulted at work. These needs are vast, and the ability for an individual to pursue legal remedies successfully is often linked to his or her ability to have his or her health care needs met. Without health care resources, individuals may suffer additional trauma throughout the process of asserting their legal claims. Advocates themselves may experience negative mental health consequences as a result of performing in their professional capacity. In order to avoid burnout or trauma, the advocate should not minimize his or her own feelings and should develop his or her own coping mechanisms and support systems well in advance of undertaking such representations.

For more information on the health care needs of individuals who have experienced sexual harassment or sexual assault, contact sexual assault professionals in your area or the National Sexual Violence Resource Center at 1-877-739-3895.