

# The Perfect Storm:

How Supervisors Get Away with Sexually Harassing  
Workers Who Work Alone at Night

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## Workers' Stories

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### About LOHP

The Labor Occupational Health Program (LOHP) is a public service program of the Center for Occupational and Environmental Health at UC Berkeley's School of Public Health. For over 40 years, LOHP has worked to prevent illness and injury in the workplace, and to raise awareness of the social and economic costs of hazardous workplace conditions for individuals, communities, businesses, and the environment.

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# Executive Summary

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More than 220,000 janitors and 148,000 security officers in California work in an industry that routinely awards contracts to the lowest bidder, a practice that drives down profit margins, which in turn drives down labor standards. These contractors face low barriers to entry and low startup costs, opening the door to fly-by-night contractors that skimp on human resources support and legal compliance. This leaves many workers with little or no protection against wage theft, excessive workloads, health and safety hazards, and sexual harassment.

This report focuses on the largely invisible problem of sexual harassment and sexual assault of janitors and security officers, known as property service workers. The report identifies the major risk factors that contribute to the high rate of harassment and also proposes a starting point for intervention.

A portion of this report appeared in the UC Berkeley Labor Center's publication, *Race to the Bottom: How Low-Road Subcontracting Affects Working Conditions in California's Property Services Industry* (March 8, 2016).

## **An industry structure that puts workers at risk**

Between one third and one half of women are sexually harassed at some point in their working life. Studies show that, in low-wage industries like the property services industry, this number is likely to be even higher. Also, it is not unusual for workers in low-wage industries to be sexually harassed or assaulted by their own supervisor.

A key finding of the report is that the property services industry is structured in a way that isolates workers who are uniquely vulnerable to sexual harassment, and then creates conditions in which workers are afraid to step forward to report harassment. There are several factors that increase the risk of sexual harassment and assault among janitors and security officers:

- **Working in isolation at night** allows supervisors to exert greater control over workers and reduces the likelihood that others will intervene or serve as witnesses. It is not unusual that a worker's only point of contact with their employer is the same supervisor who may be harassing them.
- **Characteristics of the workers**, such as being female, Latina, immigrant, and/or undocumented, can make it less likely that workers will report harassment due to the fear of retaliation, language barriers, or lack of familiarity with their rights or resources available to them.
- **Layers of contracting and subcontracting** create less accountability on the part of employers.
- **A workplace culture** including poorly trained managers and supervisors, inadequate or nonexistent sexual harassment policies, unfair investigations that humiliate workers, and retaliatory threats, serves to embolden harassers.

Finally, workers who do step forward to file harassment claims with the U.S. Equal Employment Opportunity Commission (EEOC) or California's Department of Fair Employment and Housing (DFEH) face limited protections and protracted investigations. Criminal charges are rare.

## **Recommendations**

Intervention is needed on many fronts. An **effective sexual harassment policy that is actively enforced** is the employer's most important tool for preventing and addressing sexual harassment. Though California's new regulations on harassment policies are a step forward, they do not go far enough to protect workers in this industry. One important element that is missing in California law is a requirement that workers receive sexual harassment training. Without training, workers may not be aware that a sexual harassment policy exists, may be unfamiliar with their rights, may not know how to report harassment, and may not have access to services and resources, thereby rendering the sexual harassment policy ineffective.

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This report describes elements of a model policy including provisions that solicit worker input; train supervisors and workers; encourage multiple forms of reporting; protect against retaliation; provide information in a language and format workers understand; conduct fair, timely, and thorough investigations; hold supervisors accountable for harassment; and connect workers with resources and referrals to other sources of support.

Building owners can play an important role in **changing workplace dynamics** by choosing to support high-road businesses. Building owners should require property service contractors to comply with wage, safety, and sexual harassment laws by developing a contractor code of conduct or other standards for responsible contracting. The creation of a registry would help bring fly-by-night contractors out into the open.

This report recommends ways to **improve the legal and regulatory system** to expand protections and ensure justice for workers. Resources are needed to strengthen enforcement by the EEOC and DFEH. New partnerships between these agencies and the U.S. Occupational Safety and Health Administration (OSHA) and California's Division of Occupational Safety and Health (Cal/OSHA) could elevate sexual harassment and assault as a workplace safety issue and create new avenues for intervention. More research and **data** from diverse stakeholders is needed to fully capture the scope of the problem and inform systemic solutions. More funding is needed to **create support networks** to provide services to survivors through trusted channels.

This report puts the spotlight on a problem that janitors and security officers have endured too long in silence. The dignity and health of those who clean our buildings clean and keep them safe cannot be sacrificed as a cost of doing business.



# Findings

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“In the janitorial industry, it’s the perfect storm of conditions that come together: extreme vulnerability of a female workforce, a chain of command that’s traditionally male, and a workplace where workers are isolated and alone. It’s set up for abuse to happen.”

—Lilia Garcia-Brower, Executive Director of the Maintenance Cooperation Trust Fund

A subcontracting system that awards contracts to the lowest bidder, the practice of operating “underground” or off the books, and minimal profit margins all serve to keep wages low and hazards unchecked throughout the property services industry. This industry dysfunction can also manifest itself in the form of sexual harassment and assault of janitors and security officers, often by their own supervisors. A recent Frontline documentary, “Rape on the Night Shift” (Frontline et al. 2015), has brought national attention to conditions that workers have long endured in silence.

Sexual harassment can take the form of “unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature” (DFEH 2010; US EEOC 2016). In the workplace, the harasser can be a supervisor, coworker, client, or customer (US EEOC 2016). The targets are usually women but sometimes men. Sexual harassment can impact the long-term earning capacity of survivors and force survivors to shoulder medical and legal costs (Farrell, Reisch, Sheth, Emerson & Munro 2014). The strain on a survivor’s mental health can result in substance abuse, depression, physical symptoms such

## Erika's Story: "All the women have to go through his hands"

Erika worked as a janitor for eight years. She didn't think she could find better work because she is undocumented. She supports her parents and five children on her own.

One of her recent supervisors, Raul, said he would fire Erika if she didn't have sex with him. Raul threatened her, "I know where you live, who takes care of your kids, and what time you pick them up." The harassment and threats went on for a year.

Erika saw Raul sexually harassing her female coworkers daily. One coworker told Erika, in tears, that she had to "be with Raul" in the middle of the night to keep her job. Another coworker was so distraught that Raul kept grabbing her behind, following her, and threatening her family that one day, she quit her job, sobbing, without even taking her check.

Erika and her coworker, Laura, summoned the courage to approach the manager, who came to the worksite infrequently. The women pleaded with him, "Please, please help us. We need to work, but we are suffering." The manager responded that he had to investigate. The investigation resulted in Laura being retaliated against; they cut her work schedule from five days to two days.

Carlos, a male coworker, approached the manager and said, "All the women have to go through (Raul's) hands. It's not right. Everyone leaves because of Raul." The manager had a big argument with Carlos and, the next day, all four tires of Carlos' car were slashed. The workers saw this as a clear threat meant to scare and silence them. A different male coworker told Erika, "I wish I could be more of a man to defend you, but I have to support my family in Guatemala."

Erika left and found another job as a janitor, but three days into it, her new supervisor said, "If you go with me to a hotel, you can earn in one day what you normally earn in one week." Erika never told her family about these incidents because she felt ashamed. Erika laments, "They take honest people who are doing the hardest work and deport them, but these criminals get the right to hurt women and get rich. I will never work as a janitor again."

*This story was told by a janitor to LOHP in early 2016. It was translated and edited for clarity and brevity by LOHP. Names were changed for privacy reasons.*

as weight loss and inability to sleep, post-traumatic stress disorder, and even suicidal behavior (Gutek & Koss 1993). Survivors of sexual assault may suffer from physical injuries, sexually transmitted diseases, and unwanted pregnancies (Miller, Taylor & Sheppard 2007; Yang, Zhang, Miller & LeHew 2009).

## 1. Underreporting

The frequency with which janitors and security officers in California are sexually harassed or assaulted at work is not well documented. Those familiar with the industry state that stories of harassment, often by supervisors, are very common. Lilia Garcia-Brower, Executive Director of the Maintenance Cooperation Trust Fund (MCTF) – a California multi-stakeholder industry watchdog group that works with janitors – states that, in her experience, **as many as three quarters of janitors experience sexual harassment** (Garcia-Brower 2016). Several high-profile sexual harassment cases brought by female janitors and security officers in California have been won or settled in the workers' favor in recent years (EEOC 2010; Walsh 2008a, 2008b; Walter 2012) and have helped expose an endemic problem that is largely invisible to outsiders.

### **As many as 35 to 50 percent of women are sexually harassed at some point in their working life**

(Berman & Swanson 2013; Bravo 2007; Gutek & Done 2001; Potter & Banyard 2011). The risk of sexual harassment is even higher for women working in male-dominated sectors including the security industry (Gutek & Done 2001; LaFontaine & Tredeau 1986). Underreporting is significant for a variety of reasons including shame, despair, lack of support, a sense of powerlessness, fear of not being believed, distrust of government agencies, and a lack of awareness about rights and resources available to survivors (Bravo & Cassidy 1999). Some studies have estimated that there are 5,000 to 17,000 sexual assaults in the workplace each year (Duhart 2001; Frontline et al. 2015).

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Only a fraction of workers file sexual harassment claims against their employer. In California, only 4,312 sexual harassment complaints were filed with the California Department of Fair Employment and Housing (DFEH) (DFEH 2015).

In other low-wage industries, patterns of harassment are now becoming more public. In the agricultural industry, sexual harassment and assault of Latina farmworkers by supervisors, foremen, or others in positions of power are almost commonplace and can span months or even years (Frontline et al. 2013; Human Rights Watch 2012). In a nationwide survey of 4,300 restaurant workers, more than one in ten workers revealed that they or a coworker experienced sexual harassment at work, often by a manager (Restaurant Opportunities Centers United 2011, 2012).

## 2. Risk Factors for Property Service Workers

Certain factors increase the risk that janitors or security officers may be sexually harassed or assaulted.

### Working in isolation at night

Most janitors and security officers work alone in empty buildings at night. This isolation is a major risk factor for sexual harassment and assault. In a Washington state study, 85 percent of the 63 workers who were raped in the workplace were working alone (Alexander, Franklin & Wolf 1994). Employers in the property services industry typically service a large number of work-sites. As a result, janitors and security officers generally do not have day-to-day contact with anyone representing the employer, other than the supervisor who may be harassing them. Being isolated from coworkers and the public reduces the likelihood that anyone will intervene or serve as a witness and allows supervisors to exert greater control over workers.

### Ana's Story: "The supervisor was on his side"

Ana worked as a janitor for eight years. She came to the United States twelve years ago from Mexico.

When she was 43, she worked as a janitor in a large electronics company. Another worker, Jim, a 28-year old American man, regularly made inappropriate, sexually charged comments about her looks. For two years, the supervisor, who was friends with Jim, had been saying, "You're both single, give Jim a chance. When are you going to go out with him?"

To Ana, it felt like "(the supervisor) was on his side." Ana told her supervisor she was not interested in Jim and told him to "stop pushing it." The supervisor laughed it off, even though Ana insisted, "It's not funny, it's serious."

Ana had to exchange phone numbers with Jim for work, and soon after Jim started texting her. One day, Jim wrote: "You want to try white di\*\*?"

Ana told Jim to stop texting her, but a couple of weeks later, Jim sent a sexually explicit message with vivid details about what he wanted to do with Ana, including grabbing her hair and engaging in oral sex. Ana was deeply disturbed. Again, she asked Jim to stop.

Ana's coworker saw how upset she was and convinced Ana to show the message to her supervisor. At first, the supervisor joked about the message and asked, "So did you do it?" However, when he read the whole text and saw how upset Ana was, the supervisor showed it to the General Manager, who fired Jim without telling him why. Jim, undeterred, continued to text Ana.

For a long time, Ana was afraid Jim would be outside waiting for her. "He had my phone number and knew where I worked." Ana had trouble sleeping. She felt humiliated. "Everyone at work knew... that was so hard for me," she recalls. "I didn't know harassment through texts counted. I thought the man had to touch you, so I did what the company wanted, which was to treat it like it wasn't a big deal."

*This story was told by a janitor to LOHP in early 2016. It was translated and edited for clarity and brevity by LOHP. Names were changed for privacy reasons.*

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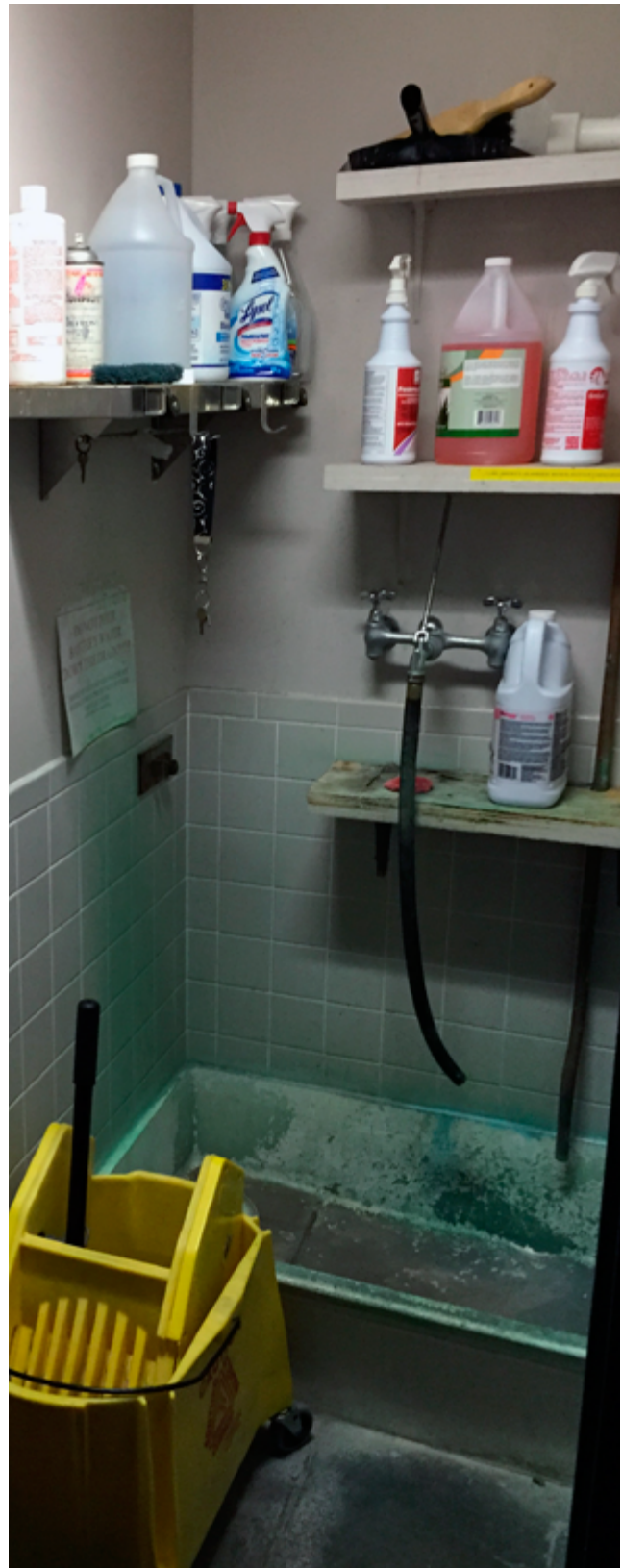
### Characteristics of the workers most at risk

Being female, Latina, immigrant, and undocumented can make it less likely that workers will report harassment due to the fear of retaliation or lack of familiarity with their rights or resources available to them (Human Rights Watch 2012). Latinas may be less likely to report sexual assault than women of other ethnicities (Arellano, Kuhn & Chavez 1997; Romero, Wyatt, Loeb, Carmona & Solis 1999). In a recent survey, only 6.6 percent of Latinas who had been sexually victimized reported it to the police (Cuevas & Sabina 2010). Workers who are undocumented are even less likely to come forward (Ammar, Orloff, Dutton & Aguilar-Hass 2005; Zadnik, Sabina & Cuevas 2016). The top concern of many Latina workers is “keeping their jobs, even at the expense of their health or accepting unfair treatment at work” (Eggerth, DeLaney, Flynn & Jacobson 2012). The threat of retaliation keeps workers from reporting and increases the harassers’ confidence that they will not be caught (Montgomery 2016).

Garcia-Brower from the MCTF observes: “In the janitorial industry, it’s the perfect storm of conditions that come together: extreme vulnerability of a female workforce, a chain of command that’s traditionally male, and a workplace where workers are isolated and alone. It’s set up for abuse to happen” (Garcia-Brower 2016).

### Layers of contracting and subcontracting

With each layer of subcontracting in the industry, there is less accountability and fewer financial resources available to prevent and correct harassment, observes Julie Montgomery, Senior Staff Counsel with the California Department of Fair Employment and Housing (DFEH) (Montgomery 2016). Jennifer Reisch, Legal Director of Equal Rights Advocates, a civil rights organization, adds: “Subcontracting creates a situation where the people at the top deliberately put themselves at arm’s length and do not know what is happening to the isolated crews in the workplace” (Reisch 2016).





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## Workplace culture

Few employers in the low-wage economy are equipped to prevent or stop harassment. Sexual harassment policies are not in place (Montgomery 2016) or are inadequate or unenforced. Workers may not know to whom they can report harassment, even if they know harassment is illegal. Supervisors are often not trained on how to respond and end up doing nothing (Human Rights Watch 2012; Tamayo 2016). Other employers dismiss claims as problems that should be handled by the criminal justice system (Frontline et al. 2015). Even worse, workers are frequently retaliated against after reporting harassment (Farrell et al. 2014; Tamayo 2013) – **almost half of women who complain of sexual harassment are retaliated against in some way** (Bravo 2007).

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**“Sexual harassment is an extension of the structure of exploitation. It is not about sexual desire – it about power and control.”**

**—Jennifer Reisch, Legal Director, Equal Rights Advocates**

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Employer investigations may not be balanced. It can be easy for employers to dismiss reports of sexual harassment as merely a personal problem between two people. Reisch explains, “Sexual harassment is an extension of the structure of exploitation. It is not about sexual desire – it about power and control” (Reisch 2016). As William Tamayo, District Director of the U.S. Equal Employment Opportunity Commission’s (EEOC) San Francisco District Office, puts it: “The issue of sexual harassment brings up all the prejudices people have (about) sex,” making it much more difficult for employers to believe a worker when she reports sexual harassment than when she reports other types of workplace violence (Tamayo 2016). To the worker, it may feel as if she is on trial and that the harasser is being defended as if he were wronged (Garcia-Brower 2016). Information

that should be kept confidential is leaked to others and the worker may feel pressure from peers to drop the complaint (Garcia-Brower 2016). Employers may require a higher standard of proof than necessary (Reisch 2016; Stockdale 1996). Investigations conducted in this way are unlikely to find wrongdoing on the part of the harasser. Workers, sensing a culture of impunity, are unlikely to come forward to report further or new harassment, and the cycle continues.

## Obstacles in the legal system

Workers can file a sexual harassment charge or claim against their employer with the U.S. EEOC, California DFEH, or both. There are many challenges associated with this process including: a relatively short deadline for filing a charge; a requirement that the employer have 15 or more employees for federal cases (thereby excluding many janitorial companies); limited agency resources; protracted investigations; a narrow definition of “supervisor” that limits employer liability (Farrell et al. 2014; Graves, Watson, Robbins, Khouri & Frohlich 2014); and extremely low caps on damages for federal cases (*42 U.S.C. §1981 A(b)(3)*).

Criminal charges against harassers are rare. When a Latina janitor in Minneapolis was raped and went immediately back to work, injured and bleeding, the local prosecutor chose not to prosecute because the evidence came down to “her word (against) his word” and, without photos, semen, or witnesses, he felt there was not sufficient evidence to prove guilt beyond a reasonable doubt (Frontline et al. 2015).

With so few consequences for harassers or their employers, there is no incentive to prevent or stop the harassment. Anna Park, regional attorney with the EEOC, states: “We have seen this time and time again, where there are certain complaints received by certain segments of their workforce (that) just (don’t) matter. It’s not that important. It is a cost of doing business” (Frontline et al. 2015).

# Recommendations

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“Why not put money into prevention instead of dealing with a crisis?”

—Emily Austin, Director of Advocacy Services, CALCASA

Addressing sexual harassment and assault in the property services industry requires action on many fronts, including: implementing and enforcing sexual harassment policies that go beyond what is required by California law, changing workplace dynamics, improving the legal and regulatory systems, closing research gaps, and expanding outreach and services for survivors. The recommendations below provide a starting point to prevent and address harassment while also leveling the playing field between employers who are in compliance with the law and those who are cutting corners to compete unfairly.

## 1. Implement an effective sexual harassment policy

In California, all employers have an affirmative duty to prevent and correct sexual harassment (2 CCR §11023). New regulations issued by the California Department of Fair Employment and Housing (DFEH) require

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employers to develop a written policy to prevent harassment (including sexual harassment), discrimination, and retaliation (2 CCR §11023). Though the new regulations are a step forward, they do not go far enough to protect workers from harassment.

All employers, no matter the size of the workforce, need to plan out, in detail, the steps that are required to prevent harassment, administer complaints, and take corrective action. Furthermore, it is not enough to merely write and adopt a policy. **The policy must be effective and must be enforced:** “the true test of a sexual harassment policy will be whether it is effective in preventing sexual harassment” (Connell 1991).

While there are minor costs to developing a sexual harassment policy and conducting effective trainings, focusing on prevention can help avoid much more costly investigations and litigation, as well as costs associated with staff turnover. Emily Austin of the California Coalition Against Sexual Assault (CALCASA) puts it this way: “It’s not that hard to move away from ‘how do I protect myself (as an employer)’ to doing what it takes to prevent and address the issue.... Even if there is a cost, it’s less than a lawsuit. Why not put money into prevention instead of dealing with a crisis?” (Austin 2016)

## Elements of a model sexual harassment policy

This section describes the elements of a model sexual harassment policy. Requirements in California are described below and are **in red and underlined** for easy reference. To address gaps in California law, this report recommends further protections, building on EEOC guidance and best practices from the field. Legislative and/or regulatory action is needed to close many of these gaps. In the meantime, proactive employers can choose to adopt a strong policy that goes beyond the bare minimum required by law.

### Rosa’s Story: “I’m the supervisor, so you have to do what I say”

Rosa comes from Mexico and has worked as a janitor for the past 15 years to support herself and her parents.

In her current job, her supervisor Oscar regularly made comments with sexual innuendos. When Rosa was chosen as the union representative for her building, she started talking with other workers to find out their concerns. Many women said Oscar stood too close to them, grabbed their hands when giving them keys, asked them to go out with him, and took them into a private office to be alone. “Go out with me and you’ll be my favorite. You’ll have the most secure job,” he said to one. If the women refused, Oscar would say, “I’m the supervisor, so you have to do what I say.” The harassment had been going on for years.

Oscar, who was 45 years old, started going out with a 22 year old worker named Linda. Rosa says, “I think she was pressured into it. She didn’t seem happy. She didn’t talk to anyone.” Oscar moved Linda from the building where she worked with another janitor to a different building by herself. When Oscar went to visit Linda at night, he instructed the security officers to keep watch so he could be alone with her. The officers would tell everyone, “Don’t bother Oscar right now. He is not available.”

Rosa asked the workers why they didn’t speak up. They replied that when they didn’t do what Oscar asked, he would assign them to do more work. The workers did not know of other people in the company to contact. Rosa helped one of the workers call the human resources department and then 13 other workers came forward to report harassment.

Three of the women filed a case in court, and Oscar was fired. The janitorial company changed hands and provided a fifteen-minute training on “how to treat people” which included topics such as how to speak politely. The trainers told workers to call the human resources department if a supervisor touched them or asked them out, but the workers were not given any numbers to call or written information.

*This story was told by a janitor to LOHP in early 2016. It was translated and edited for clarity and brevity by LOHP. Names were changed for privacy reasons.*

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## Worker involvement

Soliciting worker input in the development of a sexual harassment policy – an element that is overlooked by both federal and state law but recommended here as a best practice – can help identify and address worker concerns and potential obstacles. It sends the message to workers that the company is invested in creating a policy that works in practice and values workers’ experiences and contributions. Input can be solicited through an online or written survey, anonymous suggestion box, interviews, or through an existing committee, such as a labor-management committee or health and safety committee.

## Employer commitment to a harassment-free workplace

California requires that the employer issue [a statement that the law prohibits supervisors, managers, coworkers, and third parties from sexual harassment in the workplace](#) (2 CCR §11023). As recommended by the EEOC, an even stronger statement from the employer would state that harassment will not be tolerated, and that the employer will take every appropriate measure to prevent and address harassment (U.S. EEOC 2010a). As California employers are held strictly liable for the harassment of supervisors (California DFEH 2010), it is in employers’ best interests to emphasize in the policy that harassment by supervisors will not be tolerated.

The most protective policies will state that the company will treat harassing conduct as misconduct even if it does not rise to the level of harassment actionable under federal or state law (Maxin). A comprehensive policy will identify a “responsible person” within the company who is ultimately accountable for preventing and correcting harassment (Schickman 1992).

The policy should also state that [employees and independent contractors are protected by sexual harassment laws in California](#) (California Govt. Code §12940). In the property services industry, where a building owner or property manager typically contracts out janitorial or security work to another company, both

companies should have effective sexual harassment policies to ensure misconduct does not take place on the premises. Similarly, where there is a staffing or “temp” agency that employs workers, both the staffing agency and the client employer should have strong policies that are consistent with and reinforce each other.

The policy should define sexual harassment broadly, clearly explain what behaviors are prohibited (including electronic communications), and provide examples (California DFEH 2010; Hobson, Szostek, and Fitzgerald 2015) (see Schickman 1992 for a sample definition).

The policy should encourage both workers who are harassed and those who witness harassment to report harassment early so that management has an opportunity to correct the problem before it escalates (U.S. EEOC 2010a; Hobson, Szostek, and Fitzgerald 2015). The policy should emphasize that all workers will be protected against retaliation (more on this below).

## Effective and interactive trainings

It is not enough to design and implement a policy; training each employee in the substantive, procedural aspects is needed to put policy into practice and provide meaningful protections for workers (Connell 1991). This is an area where California law falls short. In California, [it is required that employers with 50 or more employees provide at least two hours of interactive, effective sexual harassment training to supervisors every two years](#) (California Govt. Code §12950.1). This means that workers who are not supervisors do not have to be trained, and smaller companies (including most janitorial companies) do not have to provide any training at all. Experts recommend training of all employees regardless of company size (Hobson, Szostek, and Fitzgerald 2015). Without proper training, employees may not know what behavior constitutes harassment, what to do if they experience harassment, or how to access services and resources, thereby rendering the sexual harassment policy ineffective. Annual training is recommended, a practice employed by some companies (Carrillo 2016).

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In California, it is required that [training for supervisors be conducted by professional, qualified trainers with at least two years of relevant experience](#) (2 CCR §11024). As a best practice, companies should select trainers that can tailor the training to the specific workplace and workforce, and can provide training in a language and manner that all workers can understand. Best practices include evidence-based models which document a change in knowledge, attitudes, or behaviors through training evaluations (written or verbal) and/or pre- and post-tests (Austin 2016).

The training should result in all employees genuinely understanding the company policy and the objectives behind it. The training should emphasize the need for supervisors and managers to proactively report and address harassment whether or not they are officially designated to take complaints and whether or not a complaint is actually filed (U.S. EEOC 2010a).

Employers are required to [maintain detailed records of trainings for supervisors](#) (2 CCR §11024) and the same is recommended for trainings for all employees.

### **Oversight of Supervisors**

The EEOC recommends that, when hiring supervisors and managers, employers should screen for a history of harassment (U.S. EEOC 2010a). This can prevent harassment and minimize employer liability. In reviewing the performance of supervisors and managers, employers should account for whether supervisors and managers are carrying out their responsibilities under the sexual harassment policy (U.S. EEOC 2010a). Compliance with the policy and worker satisfaction should be among the metrics by which supervisors and managers are evaluated (Sewell 2016; Connell 1991).

### **A effective complaint process that protects workers against retaliation**

California requires [the establishment of a complaint process](#) (2 CCR §11023). The EEOC guidance goes further than that to stress that “an employer’s harassment

complaint procedure should be designed to encourage victims to come forward. To that end, it should clearly explain the process and ensure that there are no unreasonable obstacles to complaints” (U.S. EEOC 2010a).

In California, it is required that the policy [prohibit retaliation against employees who report harassment as well as against witnesses](#) (2 CCR §11023). This is a critical element of an effective policy – workers need to see that those who come forward to report harassment are protected. Monitoring of personnel decisions that relate to complainants and witnesses helps to ensure retaliation does not occur (Hobson, Szostek, and Fitzgerald 2015), as changes in job tasks, scheduling, or other employment actions could be forms of retaliation.

The policy should provide multiple ways for workers to file complaints. California requires that employers [provide workers with the opportunity to report harassment to people other than their immediate supervisor](#) (for example: a human resources manager, EEO officer, other supervisor, hotline, or ombudsperson) (2 CCR §11023). While anonymous reports (such as through a hotline or physical mailbox) can be difficult to investigate, they can provide employers with an important way to identify patterns of harassment and take early action to correct harassment.

California requires that the [policy specify what managers should do when a complaint is made, and which officials are designated to receive complaints](#) (2 CCR §11023). All complaints should be documented in writing to monitor repeat offenses and patterns (U.S. EEOC 2010a).

### **Fair, timely, and thorough investigations**

In California, employers are required [to conduct a fair, timely, and thorough investigation and give all parties appropriate due process](#) (2 CCR §11023). The employer is required [to document and track the investigation for reasonable progress](#) (2 CCR §11023). California requires that [investigations be conducted by qualified personnel](#) (2 CCR §11023). The EEOC guidance goes further

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by cautioning that the investigation should not be conducted by the harasser or by any person whom the harasser has authority over (U.S. EEOC 2010a). As a best practice, the investigator should be fluent in the language that the parties speak or the employer should provide professional interpretation and translation. Investigators should employ best practices in interacting with survivors of trauma such as understanding that survivors may not be able to recount events in a linear fashion or may remember more details over a period of time (Austin 2016).

The California regulation does not specify the proper legal standard that should govern investigations. Some investigators mistakenly think sexual harassment needs to be proven beyond a reasonable doubt (a standard appropriate for criminal convictions), when investigators need only find, by the preponderance of the evidence, that there was harassment (Kow 2007). Jennifer Reisch explains, “When human resources staff conduct investigations, they have to be clear on what their role is. They do not have to use the same standard of evidence for criminal conviction in court. They just have to determine whether the behavior was unwelcome” (Reisch 2016). Also, there need not be physical evidence or witness corroboration for an employer to find that there has been harassment – “...the EEOC has ruled that the victim’s word alone may be sufficient if it is detailed and internally consistent to be believable” (Bravo and Cassedy 1992).

The EEOC enforcement guidance provides a list of questions to ask parties and potential witnesses and offers suggestions for weighing the credibility of parties (U.S. EEOC 2010a). Both the worker making the complaint and the alleged harasser should have the opportunity to tell their story, identify supporting witnesses, and provide other pertinent information (Schickman 1992).

The California regulations do not explicitly state that the employer may need to take intermediate measures (such as transferring the alleged harasser or placing the alleged harasser on nondisciplinary leave with pay) to protect the worker from harassment during the investigation (U.S. EEOC 2010a). The EEOC, however,

recommends the use of these protective steps and also cautions that, if the complainant and the alleged harasser need to be separated, the employer must ensure that actions such as scheduling or reassignment do not place a burden on the complainant, as these actions could constitute retaliation (U.S. EEOC 2010a; Hobson, Szostek, and Fitzgerald 2015).

In California, it is required that the policy state that [employers will protect confidentiality to the extent possible](#) (2 CCR §11023). If disclosure is necessary to conduct an effective investigation or to prevent physical harm, the employer should limit the breadth and content of the disclosed information (U.S. EEOC 2010a; Workplaces Respond to Domestic & Sexual Violence, A National Resource Center 2016). Employers may choose to set up an informational phone line which workers can use to discuss questions or concerns about harassment in an anonymous way. This allows workers who are not ready to file a formal complaint to address the issue while still enabling employers to meet their legal obligation to prevent and correct harassment (U.S. EEOC 2010a).

### **Appropriate corrective action**

California requires that the [employer make a timely determination as to whether harassment occurred](#) (2 CCR §11023). A strong policy will state that the employer will notify all parties of the determination and issue a written report (U.S. EEOC 2010a). Even if the evidence is inconclusive or there is no finding of harassment, the employer should still take steps to prevent future harassment such as training and monitoring (U.S. EEOC 2010a), and provide a copy of the sexual harassment policy to all parties.

If harassment has occurred, in California [the employer is required to take timely and appropriate corrective action](#) (2 CCR §11023). This is one of the most critical steps. As one janitorial contractor observes, “You have to prove to your workers that you really do think this is important... If you say ‘we want you to report harassment’ and then don’t take action, workers will not do it.

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You have to build trust over time, [and] prove what you say is true” (Sewell 2016). The employer must ensure that all harassment has stopped and require appropriate discipline for the harasser (U.S. EEOC 2010a; Hobson, Szostek, and Fitzgerald 2015). Disciplinary actions taken should be incorporated into the harasser’s personnel file (Schickman 1992). The EEOC guidance provides examples of measures to stop harassment and correct the effects of harassment (U.S. EEOC 2010a). There also should be documented, periodic monitoring to ensure harassment has stopped and that there has been no retaliation (Hobson, Szostek, and Fitzgerald 2015).

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“You have to prove to your workers that you really do think this is important.... If you say ‘we want you to report harassment’ and then don’t take action, workers will not do it. You have to build trust over time, [and] prove what you say is true.”

—Laurie Sewell, CEO, Servicon Systems

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The policy should clarify that filing a complaint with the employer does not replace a worker’s right to file a complaint with the EEOC or DFEH (Maxin ). The policy should include information on how to file a charge with EEOC and DFEH and time frames for filing charges (U.S. EEOC 2010a). The policy could also encourage workers to file a police report if there is a sexual assault and include resources and referrals to local agencies including enforcement agencies, community clinics, counseling, rape crisis centers, survivors’ groups, etc.

### **Communication of the policy in a language and manner all workers understand**

In California, [employers must disseminate the policy](#) via one or more of the following methods: providing a hard copy or emailing it to all workers with an acknowledgement return form; posting the policy on

the company intranet with a tracking system to ensure all workers have read and acknowledged receipt of the policy; discussing policies upon hire; and/or any other way that ensures workers have received and understand the policy (2 CCR §11023). It is also recommended that the policy be posted in central locations within the company, incorporated into the employee handbook, posted on the company website, and redistributed regularly as part of best practices (U.S. EEOC 2010a).

In California, [employers are also required to display the poster](#) “California Law Prohibits Workplace Discrimination and Harassment” from the California Department of Fair Employment and Housing (DFEH-162) (California DFEH). This is a poster educating workers about many forms of discrimination (age, race, sex, etc.). Employers could develop an additional poster that prohibits sexual harassment specifically and emphasizes that sexual assault is a crime (Garcia-Brower 2016). Posters should be posted at the employer’s main office as well as at the buildings and locations where workers will see them. Employers must also [distribute an informational brochure](#), “Sexual Harassment: The Facts About Sexual Harassment” (DFEH-185) or its equivalent (California DFEH 2015b).

California requires that an employer [translate its harassment policy into languages spoken](#) by at least 10 percent of the workforce (2 CCR §11023). This does not, however, go far enough to protect workers who speak less common languages. It is recommended that all trainings and materials be provided in a language that employees understand and presented in a way that is accessible to all, including those with lower literacy skills.

## **2. Change workplace dynamics**

While strong sexual harassment policies and strong enforcement of those policies are necessary tools for preventing and correcting harassment, other changes are needed, particularly in the context of low-wage work, where the structure of the workplace exposes workers to harassment and discourages reporting.

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The following are a set of recommendations regarding changes in work practices and ways for building owners to increase contractor accountability.

### **Work in pairs or teams**

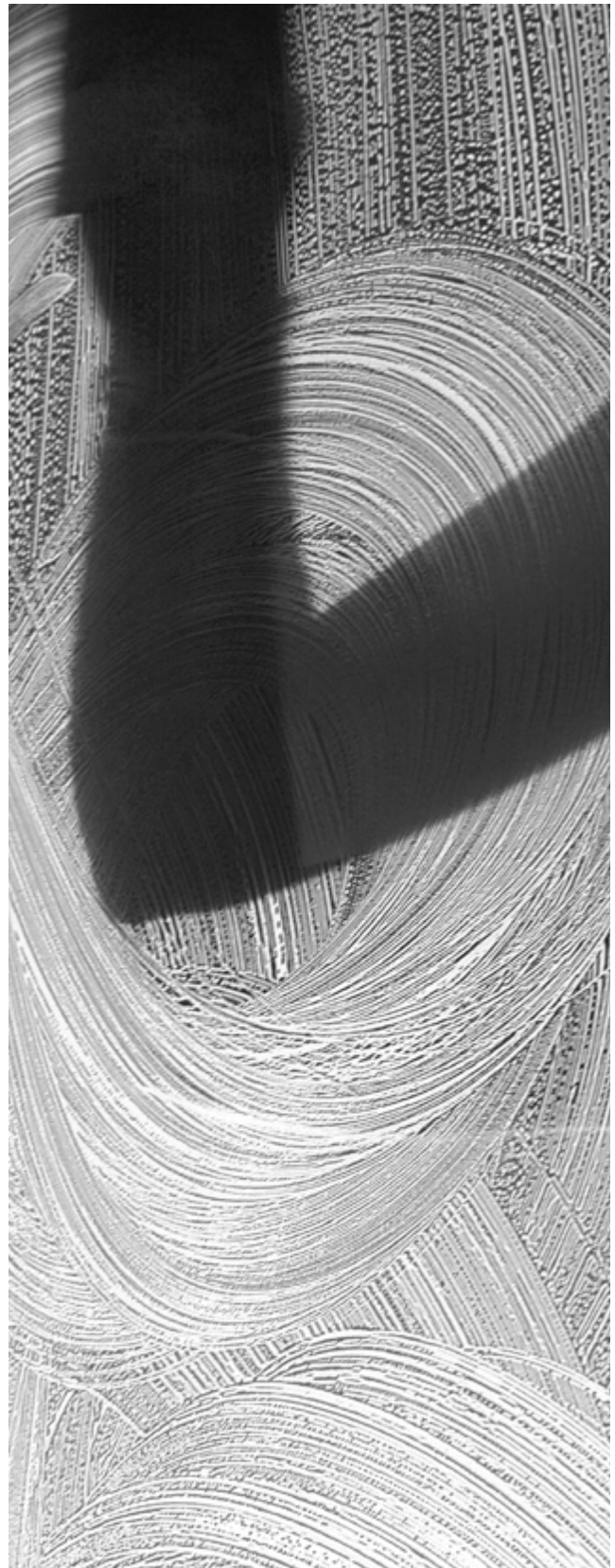
Property service workers could be assigned to work in pairs or teams to reduce isolation (Reisch 2016). A janitorial contractor comments that team cleaning could be viable for certain buildings and would allow workers to specialize (e.g., vacuuming or removing trash) (Sewell 2016). An energy-saving initiative in California directed teams of janitors to clean buildings floor by floor, instead of workers individually spreading out over several floors (Robinson-Jacobs 2001). A pilot study could be undertaken to assess the effectiveness of this approach in preventing harassment and assault. Care must be taken to identify any early signs of coworker harassment.

### **Transition to day/early evening shifts**

In the janitorial industry, a transition from night to day cleaning could reduce isolation and potentially accrue other benefits, such as electricity savings (Yeung 2015). A janitorial contractor cautions, however, that, in some circumstances, janitors may not be able to work efficiently when the building is occupied or may not have access to some areas (Sewell 2016). Transitioning to an afternoon or weekend shift could address some of these concerns while still reducing isolation. Care must be taken to identify any early signs of harassment by building occupants or other third parties.

### **Provide regular contact with company representatives outside the workers' chain of command**

Janitors and security officers who have regular contact only with their direct supervisors will find themselves in a difficult situation if that supervisor harasses them or condones harassment by others. An employer could increase workers' access to different representatives within the company, including those not directly





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in their chain of command. Human resources staff, managers, safety representatives, or even other supervisors could check in with workers periodically to identify concerns. Where there is no union, a worker who is trusted by others could serve as a liaison with management.

### **Diversify supervisory and managerial positions**

Another step forward is to diversify supervisory and managerial positions in terms of sex and gender. The property services industry is dominated by male supervisors and managers, which likely excludes qualified female candidates who may be highly committed to addressing sexual harassment in the workplace. A more diverse pool of supervisors and managers would strengthen the industry's ability to confront unhealthy sex, gender, and power dynamics. These supervisory positions, which may require longer work hours and more travel (Sewell 2016; Carrillo 2016), should be structured in a way that allows for family-friendly, flexible scheduling.

### **Encourage building owners to hold contractors accountable**

The law already requires companies that contract with contractors or temp agencies to share in health and safety responsibilities and civil liability for payment of wages and workers' compensation coverage (California Division of Occupational Safety and Health 2015; *California Labor Code §2810.3*). Similarly, responsible building owners should ensure that the janitorial and security companies they hire have an adequate sexual harassment policy and are implementing it effectively. Building owners or property managers should review the contractors' sexual harassment policies, require contractors to report past violations, require contractors to submit a summary of sexual harassment complaints received in the past few years and information regarding how complaints were resolved, and talk directly to workers to see if they are aware of the policy (Garcia-Brower 2016).

Other regulatory tactics could prove useful. California requires garment manufacturers and contractors to obtain a certificate of registration from the state by providing documentation, passing an exam, and paying a registration fee (*California Labor Code §2675*). Although garment registration itself does not necessarily prevent labor abuses because the bar for registration is set quite low (Cummings 2009), a registry for property service contractors would require contractors to be more visible and give state agencies more tools to crack down on unscrupulous contractors.

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**“It takes a commitment on the part of building owners to say ‘My model is not going to be exploitation.’”**

**—Itzel Molina, Training Manager,  
Servicon Systems**

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Building owners can also increase the accountability of their business partners by asking them to sign on to a code of conduct that includes a rigorous sexual harassment and assault policy. For example, Los Angeles World Airports (LAWA) implemented a Contractor Responsibility Program (CRP) in 2011 which requires contractors and bidders to sign, under penalty of perjury, a pledge covering “satisfactory record of business integrity” and compliance with all laws and regulations, including those that protect workers' health and safety (Los Angeles World Airports 2011). Contractors must notify LAWA when any government agency initiates an investigation or issues a finding regarding their compliance, and LAWA may terminate their contract if violations are found (Los Angeles World Airports 2011).

Prioritizing compliance with the code of conduct allows contractors to be competitive based on the quality of their service instead of simply offering the lowest price. “If we can't do what we need to do to get it right, then we don't bid on that contract,” explains Laurie Sewell, CEO of Servicon Systems. “Clients that value our work are the ones that are going to pay the right price” (Sewell

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2016). Itzel Molina, a training manager at Servicon Systems adds, “It takes a commitment on the part of building owners to say ‘My model is not going to be exploitation’” (Molina 2016).

### **3. Improve the legal and regulatory systems**

As described above, there are many barriers that prevent janitors and security officers from reporting sexual harassment to government agencies and from successfully navigating the legal and regulatory system. This section highlights some policy changes that would expand the pool of workers who are eligible to file a sexual harassment charge with EEOC or DFEH, and also increase the effectiveness of the infrastructure that is supposed to support survivors.

#### **Bring more workers under the protection of anti-harassment laws**

In California, workers can file a sexual harassment claim with California DFEH and/or U.S. EEOC. Currently, a worker cannot file a charge with the EEOC unless his or her employer has at least 15 employees (*42 U.S.C. §2000 E(b)*). Removing or lowering this requirement would allow a significant number of janitors and security officers working for very small contractors to qualify for protection under federal anti-harassment laws.

Extending federal and state deadlines – 300 days and one year, respectively – for filing sexual harassment charges could expand protection to workers who were not aware of the deadlines or were not able to come forward in time. Extending filing deadlines would bring these cases on par with deadlines for other legal remedies in California [e.g., three years for a minimum wage claim (*California Code Civ. Proc. §338*); two years for breach of an oral contract (*California Code Civ. Proc. §339*); two years for assault, battery, or other personal injury (*California Code Civ. Proc. §335.1*)]. It would give time to those who are at risk of retaliation to find ways to secure their position before filing publicly.

#### **Strengthen agency enforcement and outreach**

EEOC and DFEH need sufficient resources to shorten investigation times, improve quality of investigations, and hire linguistically and culturally competent inspectors and outreach staff (Human Rights Watch 2012). A more significant change would be to adopt a proactive investigative role, rather than an intake and processing role (Block 2014), and send investigators to uncover abuses, particularly in low-wage industries where the threat of retaliation is persistent. Agencies also need to be more visible in underserved communities (Montgomery 2016). While EEOC and DFEH have partnered with some community-based organizations to conduct targeted outreach and education, there is more that could be done in this area.

#### **Include sexual harassment policies in Injury and Illness Prevention Program Plans**

Sexual harassment is a workplace violence issue that falls under the purview of both the U.S. Occupational Safety and Health Administration (OSHA) and California’s Division of Occupational Safety and Health (Cal/OSHA), though neither has prioritized sexual harassment as an occupational safety and health issue. Harassment is a workplace hazard that can result in physical and emotional injuries and illnesses and can make workers more susceptible to other on-the-job hazards (Molina 2016; Clark 2004). Employers have a duty to protect workers under OSHA’s General Duty clause (*29 U.S.C. §654*) and under California’s Injury and Illness Prevention Program (*8 CCR §3203*).

Under California’s Injury and Illness Prevention Program (IIPP), all employers, regardless of size, must have a written safety plan (*8 CCR §3203*). Employers could be explicitly required to develop a sexual harassment policy as part of the IIPP. The IIPP provides a structure that is similar to that of a sexual harassment policy – the IIPP focuses on prevention, identifies a person responsible for the program, requires training for and communication with all employees in a language and manner they understand, establishes procedures for identifying hazards (including methods for

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employees to report hazards without fear of retaliation), requires procedures for timely correction of hazards, and delineates record-keeping practices (8 CCR §3203).

DFEH could partner with Cal/OSHA and leverage Cal/OSHA's authority to enter worksites, cite employers, and even shut down an operation when there is an imminent hazard to workers (California Division of Occupational Safety and Health 2013). Cal/OSHA inspectors could be trained to review an employer's sexual harassment policy, identify signs of sexual harassment (Block 2014), interview workers on this sensitive topic, work in partnership with DFEH, and respond quickly and effectively to prevent escalation.

### **Remove caps on damages**

For federal cases, compensatory and punitive damages have been capped at \$50,000 for employers with 15 to 100 employees since 1991 (42 U.S.C. §1981 A(b)(3)). Many janitors and security officers work for employers that fall into this category, and thus have less incentive to pursue legal remedies which may involve emotional stress, public humiliation, missed work time, legal expenses, and the risk of retaliation. Removing or at least adjusting the caps for inflation could encourage workers to come forward and deter low-road employers who see this penalty as simply a cost of doing business.

### **Adopt a realistic definition of “supervisor”**

A worker who is harassed by his or her supervisor will not prevail in a supervisor harassment claim against the employer unless that supervisor is high enough on the chain of command to have the power to hire and fire (Graves et al. 2014). The vast majority of low-wage workers, including janitors and security officers, are supervised by lower-level supervisors who have significant authority over the workers' daily activities, yet may not have the power to hire and fire (Graves et al. 2014). Broadening the definition of supervisor for the purposes of sexual harassment requires federal and state legislative action, and would enable more low-wage workers to hold their employer accountable for harassment.

### **Shift the burden of proof**

To establish a sexual harassment claim, the survivor must show that the conduct was unwelcome. Some scholars have challenged this requirement as it unfairly focuses on survivors – how they dress, how they act, their past sexual history, and whether they “invited” the harassment. This unfairly intrudes into survivors' personal lives (Ho 2008; Estrich 1991) and can result in “blaming the victim.” Some have proposed eliminating this requirement completely (Estrich 1991), while others have proposed shifting the burden of proof to require that the harasser show the conduct was welcome (Ho 2008; Radford 1994).

### **Protect immigrant survivors**

Comprehensive immigration reform is needed to assure that workers who are undocumented will not experience retaliation in the form of threatened or actual deportation. At a bare minimum, there should be agreements among agencies that US Immigration and Customs Enforcement (ICE) will not take immigration action against workers who have a pending sexual harassment claim (Human Rights Watch 2012).

The U visa program allows survivors who have suffered physical or mental abuse as a result of specific crimes (including rape and sexual assault) to obtain a temporary visa, work authorization, and a path to citizenship (Saucedo 2008; Block 2014). Many improvements are needed in the U visa process (and to the T visa program, which supports survivors of human trafficking), including removing or increasing the cap on the number of people who can receive these visas; giving witnesses to crimes similar access to immigration relief; ensuring consistent certification across agencies; educating attorneys and law enforcement agencies about how to identify and support workers who qualify; and conducting effective community outreach to increase awareness about the U and T visas (Human Rights Watch 2012; Farrell et al. 2014).

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## **Reform the criminal justice system**

Reforms needed in the criminal justice system are too extensive to be discussed in full here. There is a need for police, local prosecutors, judges, and juries to understand the emotional, cultural, and practical circumstances faced by sexual assault survivors, especially by low-wage immigrant workers. Survivors should be provided with free, independent legal counsel to help navigate the complex criminal justice system and to advance their interests, which may not be in line with prosecutorial interests (Seidman and Vickers 2005; Gillis and Beloof 2002). Changes in evidentiary rules may be necessary; for example changing impeachment rules to prevent bias against survivors filing civil suits (Lininger 2008). Others have argued that, with the criminal justice system so flawed and the burden of proof so high, the focus should shift to using civil harassment suits as “crimtorts” in which private civil actions target public harms, thereby advancing the private goals of compensation and acknowledgment as well as systemic change (Swan 2013). Restorative justice programs could also provide survivors, harassers, and community members with an alternative approach to the traditional criminal justice system (Kasparian 2014).

## **4. Close the data and research gaps**

The lack of data establishing the incidence of sexual harassment in the property services industry masks the exploitation that occurs in janitorial and security work. Although data accessible to government agencies will always be incomplete due to widespread underreporting, there are steps that agencies could take to help close the data gaps. The EEOC and DFEH collect data on the number of harassment claims filed, and should break down claims by industry and occupation and make that data available to the public. OSHA should explicitly require that employers report sexual assault to OSHA, regardless of whether there were missed work days. The California Division of Workers’ Compensation could specifically track sexual assaults and make that data publicly available.

The reality is that government agencies will only ever see the tip of the iceberg with respect to sexual harassment claims. Unions and community groups working with janitors and security officers know best what is happening in those industries and are in a better position to collect sensitive information. These trusted organizations could serve a valuable role by creating safe spaces for workers to share their experiences and receive support. Partnering with academic or research institutions, these organizations could pilot-test ways to solicit sensitive data from workers, whether through anonymous electronic surveys, one-on-one interviews conducted by a trusted organization, small focus groups, or handwritten questionnaires.

## **5. Expand culturally sensitive outreach and services for survivors**

There needs to be an extensive support network for survivors at the local level with effective systems for making referrals among employment and immigration attorneys, community health clinics, rape crisis counselors, support groups, unions, worker centers, faith-based groups, and other community-based organizations that workers already trust (Farrell et al. 2014). A culturally sensitive approach tailored to specific populations is more likely to be effective. This includes: conducting outreach through the best channels with the right messages, making survivors feel safe and understood, and designing educational materials with messages in an accessible format (CALCASA 2010). Once the initial contact is made, referrals can be made to organizations that have the resources to build trust with survivors over time and conduct one-on-one, sit-down house visits (or meetings in other safe and comfortable settings) (Garcia-Brower 2016).

# Summary

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Protecting the workers who clean our buildings and keep them safe requires intervention at multiple levels. The centerpiece of these recommendations is the model sexual harassment policy which, when developed thoughtfully and actively enforced, is the employer's most important tool for preventing and addressing sexual harassment and assault. Good intentions are not enough. It is only by planning specific procedures, creating a shared understanding among supervisors and workers, reinforcing the message that harassment and retaliation will not be tolerated, and implementing a robust policy that employers can change their workplace culture.

Protecting workers from sexual harassment and assault is the employer's legal and moral responsibility. Unscrupulous employers that fail to comply with their obligations regarding wages, safety, harassment, and other basic worker rights should be subject to enforcement. Not only do these low-road companies harm

workers, they also undermine responsible firms who must face unfair competition.

This report recommends ways to change the structure of how work is performed in the janitorial and security industries to reduce isolation of workers, increase accountability of contractors and their clients, and provide support to workers most at risk. Changes in the legal and regulatory system are also needed, including requiring OSHA and Cal/OSHA to treat sexual harassment as a workplace health and safety issue. More research and data from diverse stakeholders is needed to fully capture the scope of the problem and inform systemic solutions. Local networks to support survivors in multiple ways are essential. Since many of the risk factors for workers in the property service industry are shared by workers in other industries, there are opportunities for collaboration and coordination in ways that affirm the right of all workers to healthy, safe, and dignified work. □

# Bibliography

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- 2 CCR §11023.
- 2 CCR §11024.
- 8 CCR §3203.
- 29 U.S.C. §654.
- 42 U.S.C. §1981 A(b)(3).
- 42 U.S.C. §2000 E(b).
- Alexander, B. H., G. M. Franklin, and M. E. Wolf. 1994. "The Sexual Assault of Women at Work in Washington State, 1980 to 1989." *American Journal of Public Health* 84 (4): 640–42.
- Ammar, Nawal H., Leslye E. Orloff, Mary Ann Dutton, and Giselle Aguilar-Hass. 2005. "Calls to Police and Police Response: A Case Study of Latina Immigrant Women in the USA." *Int J Police Sci Manag* 7 (4): 230.
- Arellano, C. M., J. A. Kuhn, and E. L. Chavez. 1997. "Psychosocial Correlates of Sexual Assault among Mexican American and White Non-Hispanic Adolescent Females." *Hispanic Journal of Behavioral Sciences* 19 (4): 446–60.
- Austin, Emily. 2016. Interview with Emily Austin, CALCASA, March 21, 2016 by Alejandra Domenzain.
- Block, Sarah M. 2014. "Invisible Survivors: Female Farmworkers in the United States and the Systematic Failure to Report Workplace Harassment and Abuse." *Texas Journal of Women, Gender, and the Law* 24: 127–49.
- Bravo, Ellen. 2007. *Taking on the Big Boys, Or, Why Feminism Is Good for Families, Business, and the Nation*. New York: Feminist Press at the City University of New York.
- Bravo, Ellen, and Ellen Cassidy. 1992. 9 to 5 Guide to Combating Sexual Harassment: Candid Advice from 9 to 5, The National Association of Working Women. New York, NY: John Wiley & Sons, Inc.
- . 1999. *The 9 to 5 Guide to Combating Sexual Harassment : Candid Advice from 9 to 5, the National Association of Working Women*. Milwaukee: 9 to 5 Working Women Education Fund.
- CALCASA (California Coalition Against Sexual Assault. 2010. "Breaking Barriers: Supporting Survivors of Sexual Assault from Immigrant Communities." [www.calcasa.org/wp-content/uploads/2010/12/Breaking-Barriers-Immigrants-FINAL-UPLOAD.pdf](http://www.calcasa.org/wp-content/uploads/2010/12/Breaking-Barriers-Immigrants-FINAL-UPLOAD.pdf)
- California Code Civ. Proc. §335.1.
- California Code Civ. Proc. §338.
- California Code Civ. Proc. §339.
- California DFEH. "California Law Prohibits Workplace Discrimination and Harassment (Poster)." [www.dfeh.ca.gov/Publications\\_Publications.htm](http://www.dfeh.ca.gov/Publications_Publications.htm)
- . 2010. "Sexual Harrassment." [www.dfeh.ca.gov/Publications\\_StatLaws\\_SexHarrass.htm](http://www.dfeh.ca.gov/Publications_StatLaws_SexHarrass.htm)
- . 2015a. "Report to the Joint Legislative Budget Committee: March 2015." [www.dfeh.ca.gov/res/docs/Statistitcs/2015/DFEH%20Report%20to%20the%20Legislature%20%282%29.pdf](http://www.dfeh.ca.gov/res/docs/Statistitcs/2015/DFEH%20Report%20to%20the%20Legislature%20%282%29.pdf)
- . 2015b. "Sexual Harassment: The Facts About Sexual Harassment." [www.dfeh.ca.gov/Publications\\_Publications.htm](http://www.dfeh.ca.gov/Publications_Publications.htm)
- California Division of Occupational Safety and Health. 2013. *User's Guide to Cal/OSHA*. [www.dir.ca.gov/dosh/dosh\\_publications/osh\\_a\\_userguide.pdf](http://www.dir.ca.gov/dosh/dosh_publications/osh_a_userguide.pdf)
- . 2015. "Protecting Temporary Agency Employees." [www.dir.ca.gov/dosh/dosh\\_publications/Protecting-Temp-Agency-Employees-fs.pdf](http://www.dir.ca.gov/dosh/dosh_publications/Protecting-Temp-Agency-Employees-fs.pdf)
- California Govt. Code §12940.
- California Govt. Code §12950.1.
- California Labor Code §2675.
- California Labor Code §2810.3.
- Carrillo, Lucia. 2016. Interview with Lucia Carrillo, DMS Facility Services, March 17, 2016 by Alejandra Domenzain.
- Clark, Amanda. 2004. "A Hometown Dilemma: Addressing the Sexual Harassment of Undocumented Women in Meatpacking Plants in Iowa and Nebraska." *Hastings Women's Law Journal* 16: 139–58.
- Connell, D. S. 1991. "Effective Sexual Harassment Policies: Unexpected Lessons from Jacksonville Shipyards." *Employee Relations Law Journal* 17 (2): 191–206.
- Cuevas, Carlos, and Chiara Sabina. 2010. *Final Report: Sexual Assault Among Latinas (SALAS) Study*. 2/17/2016. [www.ncjrs.gov/pdffiles1/nij/grants/230445.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/230445.pdf)
- Cummings, Scott L. 2009. "Article:Hemmed In: Legal Mobilization in the Los Angeles Anti-Sweatshop Movement." *Berkeley Journal of Employment and Labor Law* 30: 1–84.
- Duhart, Detis T. 2001. *Violence in the Workplace, 1993-1999*. National Crime Victimization Survey: U.S. Department of Justice. 2/16/2016. [www.bjs.gov/content/pub/pdf/vw99.pdf](http://www.bjs.gov/content/pub/pdf/vw99.pdf)
- Eggerth, Donald E., Sheli C. DeLaney, Michael A. Flynn, and Cjeff Jacobson. 2012. "Work Experiences of Latina Immigrants: A Qualitative Study." *Journal of Career Development* 39 (1): 13–30.
- Estrich, Susan. 1991. "Sex at Work." *Stanford Law Review* 43 (4): 813–61. doi:10.2307/1228921.
- Farrell, Noreen, Jennifer Reisch, Monali Sheth, Joelle Emerson, and Mia Munro. 2014. "Part One: Sexual Harassment Still Exacting a Hefty Toll." In *Moving Women Forward: On the 50th Anniversary of Title VII of the Civil Rights Act: A Three-Part Series*. San Francisco, CA: Equal Rights Advocates. [www.equalrights.org/wp-content/uploads/2014/11/ERA-Moving-Women-Forward-Report-Part-One-Sexual-Harassment-Oct-2014.pdf](http://www.equalrights.org/wp-content/uploads/2014/11/ERA-Moving-Women-Forward-Report-Part-One-Sexual-Harassment-Oct-2014.pdf)
- Frontline, Univision, Center for Investigative Reporting (CIR), and Investigative Reporting Program (IRP) at UC Berkeley. 2013. *Rape in the Fields*. 2/16/2016. [www.pbs.org/wgbh/frontline/film/rape-in-the-fields](http://www.pbs.org/wgbh/frontline/film/rape-in-the-fields)
- Frontline, Univision, Reveal from the Center for Investigative Reporting (CIR), Investigative Reporting Program (IRP) at UC Berkeley, and KQED. 2015. "Rape on the Night Shift." [www.pbs.org/wgbh/frontline/film/rape-on-the-night-shift](http://www.pbs.org/wgbh/frontline/film/rape-on-the-night-shift)
- Garcia-Brower, Lilia. 2016. Interview with Lilia Garcia-Brower, Maintenance Cooperation Trust Fund, February 1, 2016 by Alejandra Domenzain.
- Gillis, John W., and Douglas E. Beloof. 2002. "Symposium: Leaders Issues in Criminal Justice Policy: The Next Step for a Maturing Victim Rights Movement: Enforcing Crime Victim Rights in the Courts." *McGeorge Law Review* 33: 689–703.
- Graves, Fatima Goss, Liz Watson, Katherine Gallagher Robbins, Lauren Khouri, and Lauren Frohlich. 2014. *Reality Check: Seventeen Million Reasons Low-Wage Workers Need Strong Protections From Harassment*. 2/17/2016. [www.nwlc.org/resource/reality-check-seventeen-million-reasons-low-wage-workers-need-strong-protections-harassment](http://www.nwlc.org/resource/reality-check-seventeen-million-reasons-low-wage-workers-need-strong-protections-harassment)
- Gutek, Barbara A., and Robert S Done. 2001. "Sexual Harassment." In *Psychology of Women and Gender*, Edited by Unger RK, 367–87. New York, NY: John Wiley & Sons, Inc.
- Gutek, Barbara A., and Mary P. Koss. 1993. "Changed Women and Changed Organizations: Consequences of and Coping with Sexual Harassment." *Journal of Vocational Behavior* 42 (1): 28–48.

- 
- Hobson, Charles J, Jana Szostek, and Louise E. Fitzgerald. 2015. "The Development of a Content Valid Tool to Assess Organizational Policies and Practices Concerning Workplace Sexual Harassment." *Industrial-Organizational Psychologist* 52 (4): 111–19.
- Ho, Grace S. 2008. "Not Quite Rights: How the Unwelcomeness Element in Sexual Harassment Law Undermines Title VII's Transformative Potential." *Yale JL & Feminism* 20 (1): 131–64.
- Human Rights Watch. 2012. *Cultivating Fear: The Vulnerability of Immigrant Farmworkers in the US to Sexual Violence and Sexual Harassment*, 2012. 2/16/2016. [www.hrw.org/report/2012/05/15/cultivating-fear/vulnerability-immigrant-farmworkers-us-sexual-violence-and-sexual](http://www.hrw.org/report/2012/05/15/cultivating-fear/vulnerability-immigrant-farmworkers-us-sexual-violence-and-sexual)
- Julie Montgomery, Helen. 2016. Interview with Julie Montgomery, California Department of Fair Employment and Housing, February 8, 2016 by Helen Chen.
- Kasparian, Amy. 2014. "Justice Beyond Bars: Exploring the Restorative Justice Alternative for Victims of Rape and Sexual Assault." *Suffolk Transnational Law Review* 37: 377–409.
- Kow, Jane. 2007. "Avoid Putting Your Company at Risk: The Top Ten Employer Mistakes When Investigating Employee Harassment and Discrimination Complaints." *GP|Solo Law Trends & News: Business Law* 3 (2). [www.americanbar.org/newsletter/publications/law\\_trends\\_news\\_practice\\_area\\_e\\_newsletter\\_home/business\\_kow.html](http://www.americanbar.org/newsletter/publications/law_trends_news_practice_area_e_newsletter_home/business_kow.html)
- LaFontaine, E, and L Tredeau. 1986. "Frequency, Sources, and Correlates of Sexual Harassment among Women in Traditional Male Occupations." *Sex Roles* 15 (7-8): 433–42.
- Linger, Tom. 2008. "Is It Wrong to Sue for Rape?" *Duke Law Journal* 57: 1557–1640.
- Los Angeles World Airports. 2011. "Contractor Responsibility Program: Rules and Regulations." [www.lawa.org/uploadedFiles/smallBusinessDocs/crp\\_RulesandRegs.pdf](http://www.lawa.org/uploadedFiles/smallBusinessDocs/crp_RulesandRegs.pdf)
- Maxin, Mark J. "Creating an Effective Anti-Harassment Policy." [www.dol.gov/oasam/programs/crc/DraftHarassmentPolicy.ppt](http://www.dol.gov/oasam/programs/crc/DraftHarassmentPolicy.ppt)
- Miller, Ted R., Dexter M. Taylor, and Monique A. Sheppard. 2007. "Costs of Sexual Violence in Minnesota." [www.health.state.mn.us/injury/pub/svcosts.pdf](http://www.health.state.mn.us/injury/pub/svcosts.pdf)
- Molina, Itzel. 2016. Interview with Itzel Molina, Servicon Systems, March 16, 2016 by Alejandra Domenzain.
- Radford, Mary F. 1994. "By Invitation Only: The Proof of Welcomeness in Sexual Harassment Cases." *North Carolina Law Review* 72: 499–548.
- Reisch, Jennifer. 2016. Interview with Jennifer Reisch, Equal Rights Advocates, February 4, 2016 by Alejandra Domenzain.
- Restaurant Opportunities Centers (ROC) United. 2011. *Behind the Kitchen Door: A Multi-Site Study of the Nation's Restaurant Industry*. New York, NY: Restaurant Opportunities Centers United.
- . 2012. *Tipped Over the Edge: Gender Inequality in the Restaurant Industry*. 2/16/2016. [www.rocunited.org/tipped-over-the-edge-gender-inequity-in-the-restaurant-industry](http://www.rocunited.org/tipped-over-the-edge-gender-inequity-in-the-restaurant-industry)
- Robinson-Jacobs, Karen. 2001. "Landlords, Janitors Join in Plan to Save Energy." *Los Angeles Times*, May 8. [articles.latimes.com/2001/may/08/business/ft-60774](http://articles.latimes.com/2001/may/08/business/ft-60774)
- Romero, G. J., G. E. Wyatt, T. B. Loeb, J. V. Carmona, and B. M. Solis. 1999. "The Prevalence and Circumstances of Child Sexual Abuse among Latina Women." *Hispanic Journal of Behavioral Sciences* 21 (3): 351–65.
- Saucedo, Leticia M. 2008. "A New 'U': Organizing Victims and Protecting Immigrant Workers." *University of Richmond Law Review* 42 (4): 08–18.
- Schickman, Mark I. 1992. "Sexual Harassment: The Employer's Role in Prevention." *Sexual Harassment: The Employer's Role in Prevention*. [www.americanbar.org/newsletter/publications/gp\\_solo\\_magazine\\_home/gp\\_solo\\_magazine\\_index/w96shi.html](http://www.americanbar.org/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_index/w96shi.html)
- Seidman, Ilene, and Susan Vickers. 2005. "Beyond Prosecution: Sexual Assault Victim's Rights in Theory and Practice Symposium: The Second Wave: An Agenda for the Next Thirty Years of Rape Law Reform." *Suffolk University Law Review* 38: 467–91.
- Sewell, Laurie. 2016. Interview with Laurie Sewell, Servicon Systems, March 15, 2016 by Alejandra Domenzain.
- Stockdale, Margaret S. 1996. *Sexual Harassment in the Workplace: Perspectives, Frontiers, and Response Strategies*. Vol. 5. Thousand Oaks, Calif: Sage.
- Swan, Sarah. 2013. "Triangulating Rape." *New York University Review of Law & Social Change* 37: 403–55.
- Tamayo, William. 2016. Interview with William Tamayo, District Director of the EEOC's San Francisco District Office, February 3, 2016 by Helen Chen.
- Tamayo, William R. 2013. *Retaliation in Harassment Cases and Threats to Deter Reporting*. 2/17/2016. [www.americanbar.org/content/dam/aba/events/labor\\_law/am/2013/06tamayo.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/events/labor_law/am/2013/06tamayo.authcheckdam.pdf)
- U.S. EEOC. 2010a. "Enforcement Guidance: Vicarious Employer Responsibility for Unlawful Harassment by Supervisors." April 6. [www.eeoc.gov/policy/docs/harassment.html](http://www.eeoc.gov/policy/docs/harassment.html)
- . 2010b. "ABM Industries Settles EEOC Sexual Harassment Suit For \$5.8 Million." September 2. [www.eeoc.gov/eeoc/newsroom/release/9-2-10.cfm](http://www.eeoc.gov/eeoc/newsroom/release/9-2-10.cfm)
- . 2012. "Sexual Harassment Charges, EEOC & FEPAs Combined: FY 1997 -FY 2011." [www.eeoc.gov/eeoc/statistics/enforcement/sexual\\_harassment.cfm](http://www.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment.cfm)
- . 2016. "Sexual Harassment." [www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm)
- Walsh, D. 2008a. "\$827,500 Awarded in Assault - Jury Finds Ex-Security Guard's Employer Didn't Protect Her from Manager." *Sacramento Bee*, March 19, Metro Final edition, sec. Main News.
- . 2008b. "\$4.1 Million Awarded in Sex Assault." *Sacramento Bee*, April 11, Metro Final edition, sec. Metro.
- Walter, Shoshana. 2012. *Janitor Wins \$812,000 in Sexual Harassment Suit*.
- Workplaces Respond to Domestic & Sexual Violence, A National Resource Center. 2016. "Model Workplace Policy On Employer Responses to Domestic Violence, Sexual Violence, Dating Violence and Stalking." Accessed March 23. [www.workplacesrespond.org/learn/model-policy](http://www.workplacesrespond.org/learn/model-policy)
- Yang, Jingzhen, Ni Zhang, Ted R. Miller, and Binnie LeHew. 2009. "Costs of Sexual Violence in Iowa: Final Report to the Iowa Department of Public Health." [idph.iowa.gov/Portals/1/Files/InjuryViolence/sv\\_cost\\_iowa.pdf](http://idph.iowa.gov/Portals/1/Files/InjuryViolence/sv_cost_iowa.pdf)
- Yeung, Bernice. 2015. *Seven Solutions That Could Help Stop Rape on the Night Shift*. [www.pbs.org/wgbh/frontline/article/seven-solutions-that-could-help-stop-rape-on-the-night-shift](http://www.pbs.org/wgbh/frontline/article/seven-solutions-that-could-help-stop-rape-on-the-night-shift)
- Zadnik, E., C. Sabina, and C. A. Cuevas. 2016. "Violence Against Latinas: The Effects of Undocumented Status on Rates of Victimization and Help-Seeking." *Journal of Interpersonal Violence* 31 (6): 1141–53.
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