

Language Access for Sexual Assault Survivors and Working Effectively with Interpreters

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Objectives of Workshop

- Participants will:
 - Learn legal basis for right to an interpreter;
 - Develop skills for identifying and meeting client's language access needs;
 - Learn skills for working effectively with an interpreter



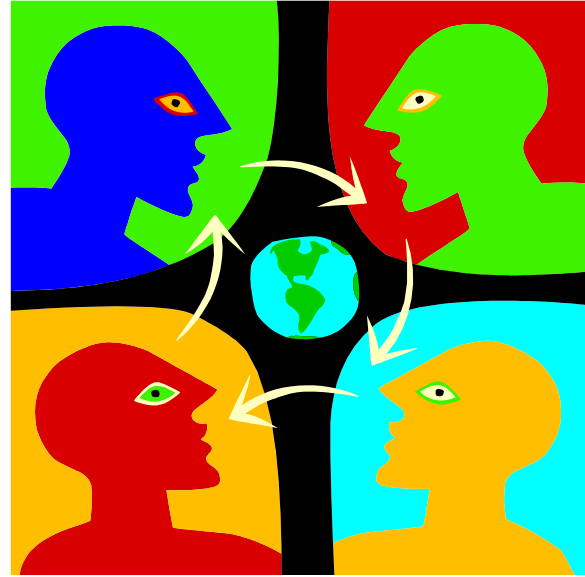
Importance of Language Access

- Services and legal protections effectively closed to victims without language access
- Medical records, counseling records, and police report with incorrectly interpreted information can:
 - Lead to “conflicts” between testimony and written records
 - Undermine victim/witness credibility
 - Incorrect information could impact safety and well being
- No access violates federal law



What is LEP?

- Limited English Proficiency
 - English is not primary language
 - Limited ability to read, write, speak or understand English
- Barrier to
 - Access-benefits or services
 - understanding and exercising legal rights
 - complying with legal responsibilities
 - understanding information provided by federally funded programs and activities.
- **Determination is by person, not by agency**



OVERVIEW OF TITLE VI AND GUIDANCE POLICY



Title VI of Civil Rights Act of 1964

- Prohibits federal funding recipients from discrimination based upon race, color or national origin
- National origin discrimination includes discrimination based on language

ALL AGENCIES THAT RECEIVE FEDERAL FUNDING ARE RESPONSIBLE FOR COMPLIANCE

Title VI: Requirement for LEP Access

- Under Title VI of the federal Civil Rights Act and federal agency regulations recipients of federal financial assistance have a responsibility to take **reasonable** steps to provide Limited English proficient (LEP) individuals with **meaningful** access their programs and activities.

Executive Order 13166

- All recipients of federal funding (including contract agencies) must provide language access to persons with **Limited English Proficiency (“LEP”)**
- Must ensure **MEANINGFUL ACCESS** to services applicants and beneficiaries.
 - No difference in services
 - No unreasonable delay in services



If you get federal funding, you...

- **Blue:** are mandated to have an interpreter for all clients that access your services
- **Yellow:** should take reasonable steps to provide LEP individuals with meaningful access to programs and activities
- **Purple:** must have available material translated for all clients



Identifying the Need

- All shelters and service providers should be aware of languages commonly spoken in the community
- Develop appropriate protocols and resources, including collaborating with immigrant community-based organizations or domestic violence service providers

List Countries the Clients You Serve Come From

What is Reasonable Access?

Four factor analysis to determine what is compliance:

1. Number or proportion of LEP individuals served or encountered in the eligible service population
2. Frequency of contacts
3. **The nature and importance of the program, activity or services**
 - *Determine whether denial or delay of access to services or information could have serious implications for the LEP individual*
4. **Resources available**

What is the Number or Proportion of LEP Individuals in Your Service Area?

- Must include language minority populations that are eligible for programs or activities **but may be underserved because of existing language barriers.**
- How to determine the number of LEP individuals?
 - Census data, data from school systems and from community organizations, and data from state and local governments.
 - Community agencies, school systems, religious organizations, legal aid entities, and others can often assist in identifying populations for whom outreach is needed and who would benefit from the recipients' programs and activities were language services provided.

What is the Frequency of Contact with LEP Persons within your Agency?

- LEP persons contacting agency on a daily basis means higher responsibilities
- But even recipients that serve LEP persons on an unpredictable or infrequent basis should have a plan to provide access

Example: being prepared to use telephonic interpretation services to obtain immediate interpreter services.

Recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

What is the Nature and Importance of the Program, Activity, or Service Provided by your Program?

Will the denial or delay of access to services or information have serious or even life-threatening implications for the LEP individual?

Example: safety, law enforcement services or services that impacts rights vs. recreational or less urgent services

What Resources Are Available?

- **Cost is not defense to non-compliance**, but programs can look to cost-sharing strategies
 - Share resources with other community groups
 - Train bilingual staff to act as interpreters and translators
 - Use telephonic and video conferencing interpretation services
 - Pool resources and standardize documents to reduce translation needs
 - Use qualified translators and interpreters to ensure that documents need not be “fixed” later and that inaccurate interpretations do not cause delay or other costs
 - Develop formal use of qualified community volunteers

Oral vs. Written Options

- Recipients have two main ways to provide language services:
 - Oral interpretation either in person or via telephone interpretation service.
 - Written translation, likewise, can range from translation of an entire document to translation of a short description of the document.

- Need to translate VITAL DOCUMENTS

Example: A police department in a largely Hispanic neighborhood may need immediate oral interpreters available and should give serious consideration to hiring some bilingual staff.

Large Group Discussion

An LEP survivor walks into your shelter. Is your organization "off the hook" on providing language services because there is another organization in your community that does ?

Identifying the Need

- LEP individuals in your community may need your help. **Do not** assume that “someone else can help them.”
- Such assumptions resulting in discrimination could jeopardize your agency’s federal funding

Implementing LEP Language Requirements

- Assess the language needs of the community
- Develop comprehensive written policy on language access
 - Oral interpretation
 - Translation of written materials
 - Notice about free language access

Implementing LEP Language Requirements

- Train staff
 - LEP policies and working with interpreters
- Vigilant monitoring & oversight of language assistance program



Best Practices

- Hire bilingual/bicultural who have or receive interpretation training
- Develop qualified interpretation resources and train them on DV/SA
 - Contractors
 - Volunteers
- Arrange/contract for use of telephone interpreters for languages not covered
- Translate written materials that are regularly provided in English for clients

Best practice in providing language accessibility is...

- **Blue:** Using bilingual staff
- **Yellow:** Having translated material ready
- **Purple:** None of the above

Best practice in providing language accessibility is...

- **Blue:** Using bilingual staff
- **Yellow:** Having translated material ready
- **Purple:** None of the above
- Implementing language accessibility involves multiple steps and taking into consideration the specifics of your community needs, which is not limited to but may include bilingual staff/advocates and translating materials

Consequences of Non-Compliance with Language Access Requirements

- Informal efforts to encourage voluntary compliance.
- If no voluntary compliance, withdrawing of federal funds.
- Under federal law, LEP persons have no private right of action.
- Use of unqualified persons to interpret, particularly in interactions with the justice system and health care can undermine the ability of those systems to help victim
 - e.g., “conflicting” statements, improper health care treatment

Assessing Whether Client Who Speaks In English Needs Interpretation

- English as a second language
- Easier to talk about traumatic events in native language
- Communication through a qualified interpreter may be more accurate
- Qualify if limited ability to read, write, speak, understand
- May speak but not read or write

Small Group Idea Exercise

- How can you identify LEP
 - Communities?
 - Individuals?
- Partners/resources who can help improve language access?
- What are the LEP gaps in your communities?
- What role could you play to remedy gaps?

Deciding on the ways to provide language assistance

- Oral interpretation
 - In person
 - On site interpreters
 - Bilingual staff trained in interpreter ethics
 - Screen to identify qualified interpreters
 - Contract interpreters
 - Telephone service (ATT Language Line, Pacifica Interpreters)
- Written /Visual translations
 - Competency of translator: check with native speaker
 - Beware of, do not use, computer translation services!
 - Some community members may not read their own language

Assume the language needed is not Spanish

- Client comes in to your office how will you identify her language interpretation needs?
- How will you find interpreters?
- How will you assure that the interpreter is
 - Qualified? Or Safe?
- When and for what interactions will language interpretation be needed?
- What steps will you need to take before the victim goes to court for a Hearing? Or Temporary protection order?
- What issues should you prepare for that could occur at the hearing?

Notifying Persons With Limited English Proficiency

- Post multi-lingual signage in entry way
- Distribute “Know your rights” brochures available in many languages
- Use language identification card
- Clients who do not read
 - Language line
- Give verbal notice to client at beginning of interaction that an interpreter can be provided at no cost to client
- Note primary language and need for interpreter in case file/ report

Terminology

- Interpreters – spoken word
- Translators – written word

Interpretation and Translation

- Hire bilingual staff who are trained, competent in the skill of interpreting
- Hire staff interpreters who are trained, competent in the skill of interpreting
- Contract with an outside interpreter service for trained, competent interpreters

Interpretation and Translation

- Arrange formally for services of voluntary community interpreters who are trained, competent in interpreting
- Arrange/contract for use of telephone interpreters
- Written materials that are regularly provided in English to applicants, clients, and public

True or false?

- Using a friend or accompanying family member to interpret is a safe practice.

A qualified interpreter is not...

- A friend, child, or other family member of the immigrant survivor
- Untrained

A qualified interpreter...

- Has specialized training about ethics and potential complications of interpreting
- Proficient in and has the ability to communicate accurately in both English and in the other language
- Has knowledge of specialized terms in both languages

A qualified interpreter...

- Understands rules regarding interpreter confidentiality and impartiality
- Adheres to his/her role as an interpreter
- Complies with interpreter ethical rules
- Generally brings a dictionary and a pen pad of paper to write on

A Competent Interpreter Will...

- Demonstrate proficiency in and ability to communicate information accurately
 - in both English and in the other language
- Identify and employ the appropriate mode of interpreting
 - (e.g., consecutive, simultaneous, summarization, or sight translation);
- Have knowledge in both languages of
 - any specialized terms or concepts peculiar to the entity's program or activity
- Understand & follow confidentiality & impartiality rules
- Understand and adhere to their role as interpreter
 - without deviating into a role as counselor, legal advisor, or other roles (particularly in court, administrative hearings, or law enforcement contexts)

Questions to Ask to Determine Whether An Interpreter Is Qualified

- How did you learn
 - English?
 - Non-English language?
- As an interpreter what is your
 - Training
 - Experience
 - Credentials
- Have you been certified/qualified as an interpreter
 - What state(s)?

Qualification - Continued

- Have you had any training on violence against women issues?
- Do you know the interpreters code of professional responsibility?
- Are you willing to abide by its terms & sign a confidentiality agreement?
- Any potential conflicts?
 - Know the perpetrator
 - His family?

Working With Qualified Interpreters

- Difference between
 - Working with bilingual advocate or staff member and
 - Qualified/certified interpreter
- Should sign confidentiality form
- Positioning – you should talk directly to, face client not the interpreter
- Encourage client/interpreter to ask for clarification

Working With Interpreters Continued

- Use first person language
- Avoid double negatives
- Speak simply, clearly, without
 - Legalese
 - Acronyms
 - Slang
- Use short, clear, simple sentences
- Pause for interpretation
- Document use of interpreters
- Encourage interpreter to
 - Take notes
 - Use a dictionary

Timeliness of Services

- Interpretation should be provided in a timely manner
- Language assistance should be provided
 - at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or
 - delay in important rights, benefits, or services to the LEP person.
- In providing **law enforcement, health, and safety services**, and **when important legal rights are at issue**,
 - an agency would likely not be providing meaningful access if it had one bilingual staffer available one day a week to provide the service

In cases involving victims, timeliness is of the utmost importance!

Strategies on How Best to Work With Interpreters

- Be sensitive to the needs of the client when choosing an interpreter
- Consider the age, gender, and cultural background of the interpreter
- Privilege between the you and your client may not attach where a non-professional third-party is present
- Face the client and speak directly to her using the first person rather than speaking to the interpreter.

Strategies on How Best to Work With Interpreters

- Avoid using jargon, technical terms and acronyms
- Pause frequently, take breaks, plan for longer meetings
- Try to monitor the interpreting to ensure that the interpreter is accurately relaying the conversation
- To the extent possible, do not discuss the client or the case with the interpreter in English in the presence of a client who does not speak English

Strategies on How Best to Work With Interpreters

- Instruct the client on how to interact with an interpreter in depositions or trials, encourage the client to face the lawyer or judge when answering questions rather than conducting a conversation with the interpreter



Small Group Discussion:

**What are Creative Approaches to
Providing Language Access to
Immigrant Survivors/victims?**

Benefits of Working With Community Based Partners

- Learn Which Existing Programs Immigrant Women Trust
 - Immigrant community-based organizations
 - Faith-based organizations serving immigrant communities
 - Respected Female Leaders
 - Immigrant women's organizations
 - Programs providing health care in immigrant communities
 - Victim services programs (advocacy, legal, social services) with track records serving immigrant communities

Cultural Considerations

- Eye Contact - how is this different in various cultures, why is it important to understand the differences
- Nodding and Smiling
- The concept of Time
- Double negatives in interpretation
- Deaf Culture

Data on LEP Survivors and Quality of Services Provided

- Service providers reported most LEP clients were Spanish speakers, followed by Portuguese, Russian and Korean.
- In cases when LEP clients called the police for help, the officer:
 - spoke the victim's language 12% of the time
 - identified the victim's language 42.6% of the time
 - spoke with an unqualified interpreter 30% of the time
 - used a language line 7% of the time
 - used a qualified interpreter 10.4% of the time

LEP Survivors Experiences

- Unqualified interpreters included:
 - Children of the victim or the perpetrator (24.3% of cases)
 - Friend of neighbor (22.9% of cases)
 - An adult relative (17.8% of cases)
 - A person who claimed to know the victim's language who was not a friend, neighbor or relative (9.8% of cases)
- Inability to communicate and lack of knowledge about U visa, VAWA or legal rights and options for immigrant survivors were the most commonly cited reasons for police not taking a report

Domestic Violence Victims

The police responding to the call for help only spoke to the perpetrator who spoke English in 8.1% of cases.

Victims were referred to culturally or linguistically appropriate victim services in 29.3% of cases.

Police did not take a report in 54.4% of cases.

Sexual Assault Victims

Police only spoke to the perpetrator in English in 10.7% of cases.

Victims were referred to culturally or linguistically appropriate services in 19.7% of cases.

Police did not take a report in 51.3% of cases.

Human Trafficking Victims

Police spoke only with the perpetrator who spoke English in 4.84% of cases.

Victims were referred to culturally or linguistically appropriate victims services in 17.6% of cases.

Police did not take a report in 67.8% of cases



Key Findings with LEP Survivors and LE

- Police treatment of immigrant and LEP clients was rated more favorably in larger jurisdictions, and worsened as jurisdiction type got smaller. (chart)
- Law enforcement agencies that had a collaborative relationship with service providers on outreach to LEP communities more likely to use a qualified interpreter or a language line (chart)
- Respondents reported that their LEP clients face challenges not only in dealing with law enforcement but in gaining access to public resources (health, housing, education) and therapy and victim counseling.
- Language access has a profound impact on the willingness of a client to report their crime. (chart)

Resources

Resources

- Know Your Rights brochures in different languages
- “I SPEAK” Cards to identify language
- www.lep.gov
 - Policy guidance for specific agencies
 - Demographic data
 - Model programs