



Access to Justice for All Victims: Language Access and Meaningful Collaborations

This presentation was produced by the Vera Institute of Justice Center on Victimization and Safety under Award # 2015-XX-GA-K015 awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this presentation are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice.




The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others



VISION
OVC-Funded Project

What is Language Access? Why Does It Matter?

Leo Martinez
Casa de Esperanza – National Latin@ Network




The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others

2

Learning Objectives

As a result of this workshop, participants will be better able to:

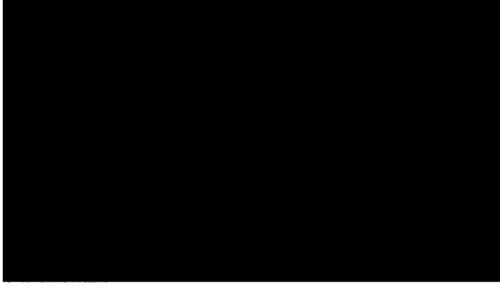
- ✓
 Articulate **why language access matters**, and **how it is connected** to victim equity, civil rights compliance, quality and trauma-informed services, cultural humility, and systems change.
- ✓
 Discuss the importance of language access for carrying out and fulfilling your **organizational missions [1]**
- ✓
Demonstrate initiative in providing meaningful language access services by writing down two organizational commitments regarding language access.



The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others

3

Experiential activity



for REACHING VICTIMS
Helping those who help others

Video #1: Reactions

Have you ever been in a **foreign country** where you did not speak the language?

Have you ever had to navigate a **social situation** in a foreign language and you felt lost in translation?

What did you do? How did you feel?

The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others

5

Video #1: Discussion

How did you feel when you watch this video? How many of you have children? Do you feel this could happen to you?

In the context of the video, what thoughts do you think run through the **mother's mind** as she encountered the language barrier?

Based on this activity and your previous knowledge, what are the **consequences of lack of language access** on a survivor of crime? And on the provider?

The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others

6

Sawng Hing's Story

- What did the article make you think about the needs of individuals with LEP?
- What are the consequences of lack of language access on the individual? And on the provider/ agency?
- What are the implications for organizations starting or strengthening their efforts to provide language access to victims with LEP?
- Are there gender biases here that are reinforced from the lack of language access or language privilege?



7

Oklahoma City and Magdiel Sanchez

- What issues does this article raise?
- What are the consequences of lack of language access on the individual? And on the agency?
- What are the implications for organizations starting or strengthening their efforts to provide language access to victims who are Deaf or hard of hearing?



8

Consequences of Lack of Language Access

- **For the victim:**
 - Risk to life and safety of the victim
 - If programs are not accessible, survivors will not seek help
 - Perpetrators are rewarded: cycle of victimization continues and worsens
 - Lack of community trust in your organization
- **Re-victimization**



9

Consequences of Lack of Language Access

- **For law enforcement:** arrest of the victim instead of the perpetrator (inability to get full story and determine primary aggressor in domestic violence situations).
- **For the agency:**
 - Challenges to quality of service and to fulfilling organizational mission
 - Lack of compliance with legal mandate and liability issues



10

What is Language Access?

Language access consists of ensuring that persons who:

- have **limited or no English** language proficiency, or
- are **Deaf or Hard of Hearing**



...are able to access information, programs and services at a **level equal to** English-proficient, hearing individuals



11

Definitions

Limited English Proficiency (LEP) –

the limited ability of individuals who do not speak English as their primary language to:

- read,
- speak,
- write, or
- understand English



12

Definitions

Deaf –

A capital Deaf denotes a **cultural distinction** that defines a group of people who are deaf and identify themselves as members of a linguistic and cultural group.

This Deaf identity is akin to other **ethnic groups**, such as Hispanic, African American, or Pacific Islander.



Legal Requirements

- Title VI of the **Civil Rights Act** of 1964
- Section 504 of the **Rehabilitation Act** of 1973
- Titles II and III of the **Americans with Disabilities Act (ADA)**



Language of Title VI

- “**No person** in the United States shall, on the ground of race, color, or national origin, be...subjected to discrimination under any program or activity receiving Federal financial assistance.”



Requirements for Recipients of Federal Funds

- If an organization receives **any** federal funds then **all aspects** of that organization are obligated to take **reasonable steps** to ensure that individuals with LEP have meaningful access to the **benefits and services** provided by that organization.



Requirements for Places of Public Accommodation



Regardless of funding source, the ADA requires:

Organizations that are places of **public accommodation** ensure that communication with people who are Deaf or hard of hearing is **equally effective** as communication with people without disabilities.

Language Access Standards

1

Meaningful access

2

Effective communication

Additional Information

Helpful laws to review and keep in mind:

- Title VI of the 1964 **Civil Rights Act**
- Executive Order 13166
- **Americans with Disabilities Act** and Section 504 of the **Rehabilitation Act**
- The Supreme Court has defined one type of **national origin discrimination** as discrimination that is based on a person's inability to speak, read, write or understand English. [See *Lau v. Nichols*, 414 U.S. 563 (1974).]



Impact of Language Access

25 million Americans are limited-English proficient (LEP)

37 million Americans are Deaf or hard of hearing (D/HOH)



Victim Equity

Equity –
Providing survivors the support they need to achieve **the same or comparable outcomes**

Linguistically and culturally responsive services are needed for D/HoH and LEP survivors to **be safe and achieve justice.**



Language Access Provision and Cultural Humility

Cultural humility:

- 1 is a **commitment**
- 2 is a **process**
- 3 **avoids labels**

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

22

Language and Culture

An LEP victim does not make **eye contact** and hesitates during an interview with a police officer through an interpreter. The officer, whose cultural norms place value on direct eye-contact, infers that she is not telling the truth. However, avoidance of eye-contact could very well be due to the survivor's cultural norms or may instead show the impact of trauma on that individual.

Cultural taboos in discussing sexual assault or no concept of marital rape could influence communication and understanding of language in provider-client interactions.

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

23

Cultural Training Components

Cultural humility concepts for each organization to embed and increase awareness:

- 1 **Bias**
- 2 **Oppression**
- 3 **Marginalization**
- 4 **Historical trauma** of different populations
- 5 **Intersectional issues**

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

24

Discussion

- Whom are you **currently serving**?
- Who in your community is likely to **request language access services** from your organization?
- What is your organization **already doing** to provide language access to clients to have LEP or are Deaf or Hard of Hearing?



25

Language Access and Trauma

Trauma –

The unique individual experience of an event or enduring condition in which the individual experiences a **threat to life** or to her or his psychic or bodily integrity, and experiences **intense fear**, helplessness, or horror....

Trauma often impacts individuals in multiple domains, including physical, social, emotional, and/or spiritual.

A **trauma-informed system** incorporates an understanding of the pervasiveness of trauma and its impact into every aspect of its practice or programs.... This includes attending to **culturally specific experiences of trauma** and providing **culturally relevant and linguistically appropriate services**.



26

Language Access and Trauma

- Opportunities for healing occur at all points of **contact**: services that are accessible and culturally responsive contribute to the healing process.
- Integrate knowledge about trauma into policies, procedures, and settings, including those pertaining to language access.



Learning Points

- **Language access** means ensuring that people with LEP or D/HoH are able to access information, programs, and services **at a level equal** to English proficient hearing individuals.
- **LEP** refers to the **limited ability** of individuals who do not speak English as their primary language to read, speak, write, or understand English.
- **Deaf people** in the US have a **distinct culture**, shared language, social interactions and support systems. There are many intersectional identities in the Deaf community, **and not all** Deaf clients are fluent in ASL.



Learning Points (continued)

- Language access is a **legal** and an **ethical mandate**. The cost of not providing language access is too high for the individual, for the provider and the agency.
- Language access must be delivered in a **culturally responsive** and **trauma-informed** way.
- Language access must be part of every organizational point of contact with clients; it's a **systems-wide framework** of language justice and cultural humility.



Meaningful Collaborations and Cultural Responsiveness

Aparna Bhattacharyya
Raksha



OBJECTIVES

- Learn the importance of culture when working with victims of crime
- Understand the complexities of different communities in relation to culture and in relation to privilege and oppression.
- Identify cultural and systemic barriers to access services for underserved victims of crime



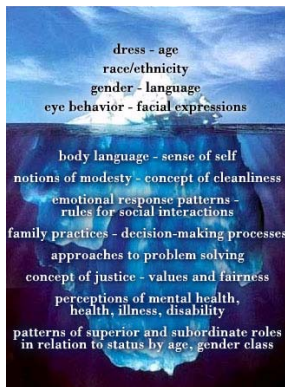
Culture

The set of values, structures and practices held in common by a group of people, who are usually identified by ancestry, language, and traditions. It can also describe those characteristics that we are born with, some of which are permanent and some of which can be changed.



32

Cultural Iceberg –
What we see and we don't...



33

Culture

• A critical definition of culture refers to shared experiences or commonalities that have developed and continue to evolve in relation to changing social and political contexts, based on:

- race
- ethnicity
- national origin
- Gender
- religion
- age
- Class
- Ability/Disability Status
- Immigration Status
- Language
- Sexual orientation
- Gender identity
- education
- geographic location (space)
- rural, urban,
- time, or
- other axes of identification (experiences)
- within the historical context of oppression



34

What is the constant about culture?



35

Culture

- Culture can shape:
 - Our views of ourselves
 - Our expectations of others
- Culture can be:
 - The way we discipline our children
 - Whether there was violence in our homes
 - Culture of silence when solving problems
 - What we share (dirty laundry) & don't share
 - Culture influences religious practice & vice versa



36

Cultural Continuum

Cultural Competence	Cultural Humility	Cultural Responsiveness
Knowledge in regards to a particular culture or group of individuals	Attitudes in regards to other cultures and learning about them	The response/actions taken after learning about a certain culture or group of individuals
Focus is Knowledge	Focus is Attitudes	Focus is Your Actions
How much do you know?	How your biases affect your work?	What will you do with the knowledge you have?



Avoid Assumptions

Don't assume all people from a particular cultural group are the same or share the same values, priorities, language or dialect.

- Learn about your client's beliefs, priorities, and language.
- Identify areas where you and the client share similarities.
- Build rapport.



38

What is Culture?

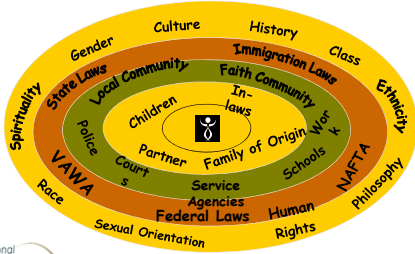
<https://www.youtube.com/watch?v=DWynJkN5HbQ>



Georgia Victim Assistance Academy

39

GALAXY OF AN INDIVIDUAL Should our services be the same for each person we work with?



The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others

Discussion

- What is your cultural identity?
- How does your cultural identity affect, limit or enhance your work?

41

Bias and Unconscious Bias

Bias – We all have it. Explicit and Implicit

1. Particular tendency, trend, inclination, or opinion, especially one that is preconceived or unreasoned: *illegal bias against older job applicants; the magazine's bias toward art rather than photography; our strong bias in favor of the idea.*
2. Unreasonably hostile feelings or opinions about a social group, *prejudice: accusations of racial bias*

Source: Dictionary.com

The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others

Georgia Victim Assistance Academy

42

How Bias influences how we show up?

Does it impact how we see and interact with individuals and groups in our community?



Georgia Victim Assistance Academy

43



What are views that others have about you or your community? Are they realistic?



Cultural Responsiveness

- “**Cultural responsiveness** is the ability to learn from and relate respectfully with people of your own **culture** as well as those from other **cultures**.”
- Each individual we work with has multiple identities and experiences.
- We need to work with each person based on how they identify and their realities even if they differ from our own.



45

Language and Culture

It is through language that we communicate with the world, define our identity, express our history and culture, learn, defend our human rights and participate in all aspects of society... Through language, people preserve their community's history, customs and traditions, memory, unique modes of thinking, meaning and expression. They also use it to construct their future."

2019 International Year of Indigenous Languages: <https://en.iyil2019.org/>



Language Access as a Part of Culturally Responsive Services

- Language Access is not just a contract with language line
- Language Access is not just having one bilingual staff
- Language Access is more than translating materials
- It is a commitment to the community and meeting their multi-layered needs
- It is seeing the survivor as a whole and creating meaningful collaborations to address their needs.



47

What if we are a small organization with limited resources?

- Language Access means equal access to safety and healing for all. Turning a survivor away is not an option.
- Language access is a process and is about taking reasonable steps, keeping in mind that the bar of what is considered "reasonable" increases with time.
- Budget to ensure access and be proactive. Have conversations about access with supervisors and leadership.
- Language access can be achieved through a multilayered approach that can meet the needs of organizations of all sizes and budgets



48

A Multilayered Approach to Language Access Resources

- Develop a relationship with an interpreting agency
- Identify bilingual staff with demonstrated language proficiency in L2 providing culturally relevant services in language.
- Develop meaningful partnerships with culturally-specific organizations, community members, and therapists.
- Contract corporate telephonic interpreters for hearing or video remote sign language interpreters
- Language access is an evolving process



Excerpt from Translating Justice, Module 4

49

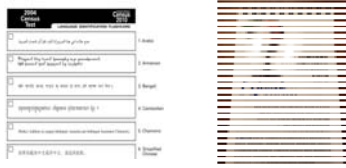
Providing Language Access: Being Proactive

We are required to have LEP plans but:

- Are they being implemented?
- Does everyone in your agency have the info by their phone and appropriate training?
- How do we identify languages we might not be familiar with (i.e. indigenous languages, dialects, and languages from countries our organizations might not serve)
- What kind of training is there for language identification and provision?



Language Identification: “I speak cards” or I speak booklets



• Sample I Speak Cards can be found at lep.gov
<https://www.dhs.gov/xlibrary/assets/cris/1715-1-speak-booklet.pdf>



51

Q: What if my client does not recognize their language in the language ID card?

- What are some creative ideas and ways you can overcome this and meet the needs of the survivor in front of you?
- Where can you ask for help?



52

Systems Advocacy for Meaningful Access for LEP Individuals

Ensuring meaningful language access should be part of a coordinated community response:

- Among DV/SA/CBO service providers,
- Police
- Prosecutors
- Courts
- Social service providers
- Hospitals/Mental Health Providers/Therapists



ADCI

Resources


- Casa de Esperanza/National Latin@ Network
- The Culturally Specific Resource Centers – Casa de Esperanza , Asian Pacific Institute on Gender Based Violence (APIGBV)
- Vera Institute of Justice
- Deaf Hope
- Consul Generals
- Statewide Coalitions (Arizona is a great example)
- AYUDA Language Bank
- Asian Women’s Shelter Multi Language Access Model (MLAM) Program
- Cherokee Family Violence Program Statewide Hotline for Spanish Speakers



Slide 54

ADC1 Are we sure all of these orgs want to be listed?
Ana De Carolis, 4/10/2019

Meaningful Collaborations



55


Let's discuss challenges to meaningful collaborations



56

Objectives

- Recognize how collaboration can support our work with underserved victims.
- Identify potential collaborations to minimize gaps marginalized victims may face.
- Identify strategies for challenges when collaborating and best practices in collaboration.



Georgia Victim Assistance Academy

TYPES of RELATIONSHIPS

Elements	Cooperation	Coordination	Collaboration	Partnership
Characteristics of Relationship	Trust and Reliability	Integrity and Discipline	Understanding and Selflessness	Commitment and Ownership
Nature of Relationship	Informal, Ad-hoc	Semi-formal	Formal	Formal, Legal Incorporation
Involvement	As few as two people	Several, maybe horizontal organizational slice	Several, many horizontal and vertical organizational slices	New or refined organization
Resource Investment	Minimal	Moderate	Major	Major
Control over Resources	Unchanged original organizations	Modified original organizations	Shared or transfer to new unit	Legally binding
Authority to Make Decisions	Retained by original organizations	Retained by original organizations	Transfer to new unit	Create new structure

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

Georgia Victim Assistance Academy

Community Partnerships: Benefits

- 1 Critical **cross-training** and **cross-pollinization**
- 2 Culturally specific/multilingual staff can be **cultural bridges**
- 3 Better **referrals** and client **outcomes**
- 4 Emergency situations are handled with **optimum outcomes**

Formal partnerships should be part of your foundational language-access planning

RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

59

COLLABORATION



The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

Georgia Victim Assistance Academy

Activity : Scenario 1

You are part of a community task force. You notice they bring in lunch from a corporation that has been open about their anti LGBTQ agenda. Some task force members are very upset to see the food at meetings and are questioning if this is a safe space to continue to work to address the needs of victims. What are the issues are you facing in this scenario? What are some things that can be done to address the conflict that has come up.



Georgia Victim Assistance Academy

Activity : Scenario 2

As a small community based organization, you work with a number of undocumented crime victims. The local sheriff/police chief has anti-immigrant sentiment and will not sign law enforcement certifications for U visas or use interpreters when limited English proficient survivors call for help. Many survivors are being re-victimized as a result.

- What can you do ?
- Who are some potential allies?
- What strategies can you use?



Georgia Victim Assistance Academy

Activity : Scenario 3

You are working in a victim assistance office where there have been officer involved shootings with young African American youth. There have been Black Lives Matter protests and you are hearing from victims that they don't believe they will get justice in your office given the recent incidents. There is not a lot of trust.

- What can you do ?
- Who are some potential allies?
- What strategies can you use?



Georgia Victim Assistance Academy

Activity : Scenario 4

Your organization is considering gaps around working with deaf and hearing impaired community. As you are planning to create an advisory community, one member tells you there is a need to have ASL(American Sign Language) interpreters for the meetings. You hear from some members that this will cost money we don't have in the budget. The advocate representing the community gets upset and is about to leave the group. She feels her voice is not as valuable as other voices; feels tokenized.

- What can you do ?
- Who are some potential allies?
- What strategies can you use?



Georgia Victim Assistance Academy

Activity : Scenario 5

You are a community based organization working with limited English Proficient survivors who speak Marathi. You are aware it has been hard for community members to access this shelter due to language barriers. All shelters in your state are required by your state funder to provide meet language access needs of survivors. Clients have called and asked for interpreters when they call but for some reason it seems they are not able to get shelter. Even after calling supervisors it still seems to be a challenge.

- What can you do ?
- Who are some potential allies?
- What strategies can you use?



65

Challenges in Collaboration

- Tokenism
- Power Dynamics
- Philosophical Differences
- Territory and stakeholders stuck in own ways
- Time Consuming



66

Benefits of Collaboration

- Leverage Resources, Creative Solutions
- Promotes Climate of Trust and positive working relationships
- Stakeholders participate in joint problem solving



67

Key Strategies for Collaboration

- Identify and Clarify Goals/Purpose
- Invest in time and processes and ensure it is user friendly, efficient and transparent
- Make sure you have right people and organizations involved
- Get it in writing. Document roles and responsibilities.
- Make time to share stories, process challenges, and celebrate successes.



68

Key Strategies for Collaboration, cont'd

- Cross Training
- Clear Communication
- Respect and trust for each other's work
- Share resources
- Document and Delineate Roles and Expectations
- Strategize and Plan for Collaboration
- Trust, Respect, Integrity and Accountability are key aspects of any collaboration.



69

Potential new partners

- Be creative in engaging new partners in addition to the “usual suspects”
- Consider partners from different fields and geographical areas
- Consider Academic institutions, and more as sources of language, knowledge, and evaluation.



70

NATIONAL RESOURCES

- Tahirih Justice Center - <http://www.tahirih.org/>
- International Kidnapping – 1800-the LOST- National Center for Missing and Exploited Children
- National Immigrant Women’s Advocacy Project 1-202-274-4457
www.niwap.org
- Karamah – www.Karamah.org
- American Citizen Unit with US Embassy Toll Free Phone from the U.S./Canada: 1-888-407-4747
- FORGE - <http://forge-forward.org/>



Georgia Victim Assistance Academy

NATIONAL RESOURCES

- National Latino Network - Casa Esperanza <http://www.nationallatinonetwork.org/>
- Asian Pacific Institute on Gender Based Violence <http://www.api-gbv.org/>
- Ujima, Inc <https://ujimacommunity.org/>
- WOCN – Women of Color Network <http://www.wocninc.org/>
- The Northwest Network - <http://www.nwnetwork.org/>
- National Organization of Sisters of Color Ending Sexual Assault - <http://sisterslead.org/>
- ASISTA - <http://www.asistahelp.org/>



Georgia Victim Assistance Academy

Georgia Victim Assistance Academy

Legal Rights and Options for LEP,
Deaf, Hard of Hearing, and
Immigrant Survivors



6/20/2019 ... 73


Legal Rights and Options for
LEP, Deaf, Hard of Hearing,
and Immigrant Survivors

Leslye Orloff
National Immigrant Women Advocacy Project



74

What countries are the LEP and
immigrant survivors and immigrant
children you are seeing in court
coming from?



75

US Demographics (2017)*

- ❖ Total foreign born population – 44,525,855
- ❖ 13.7% of the country’s ~325.7 million people are foreign born
 - 49.3% naturalized citizens
 - ~26.3% legal permanent residents and temporary visa holders
 - ~25.4% undocumented (includes pending VAWA, Us, Ts, SIJS)
 - 43.1% rise in immigrant population from 2000 to 2017
 - 22.5% of U.S. population speak a language other than English at home
- ❖ Proportion of new immigrants
 - 30.7% entered in or before the 1990s
 - 25.7% entered 2000 -2009
 - 21.3 % entered 2010 or after
- ❖ 26% of children under age 18 have one or more immigrant parents
 - 87.9% of these children are native-born U.S. citizens

*Source: Migration Policy Institute Data Hub (January 2017) and DHS Population Estimates (November 2016)



6/20/2019 ... 76

US – Countries/Regions of Origin (2017)*

- ▶ Asia – 27.7%
 - ▶ China/Taiwan (6.4%)
 - ▶ India (5.9%)
 - ▶ Philippines (4.5%)
 - ▶ Vietnam (3.0%)
 - ▶ Korea (2.4%)
- ▶ Latin America – 50.4%
 - ▶ Mexico (25.3%)
 - ▶ Other Central America (4.8%)
 - ▶ South America (7.2%)
 - ▶ Caribbean (9.9%)
 - ▶ El Salvador (3.1%)
- ▶ Europe – 10.8%
 - ▶ Eastern Europe (4.8%)
- ▶ Oceania – 0.6%
- ▶ Africa – 5.1%
- ▶ Middle East – 3.5%
- ▶ Non-U.S. North America – 1.8%

*Source: Migration Policy Institute Data Hub (January 2017)



6/20/2019 ... 77

Limited English Proficiency (LEP)(2017)*

*Source: Migration Policy Institute Data Hub (January 2017)

- ▶ Language spoken at home
 - ▶ 21.8% of people in the U.S. speak language other than English at home
- ▶ LEP = Speak English less than “very well”
- ▶ Foreign born persons who are LEP
 - ▶ Non-citizens (58.3%)
 - ▶ Naturalized citizens (37.3%)



6/20/2019 ... 78

Language Access Laws

- Title VI of the Civil Rights Act of 1964
- Americans with Disabilities Act and Section 504 of the Rehabilitation Act
- Language Access Executive Order 13166
- Lau v Nichols, 414 U.S. 563 (1974) discrimination based on a person's inability to speak, read, write or understand English is one type of national origin discrimination



6/20/2019 ... 79

Title VI of the Civil Rights Act 1964

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving *Federal financial assistance*.

Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d



6/20/2019 ... 80

Title VI of the Civil Rights Act 1964

Meaning:

- If an organization receives any federal funds
- All aspects of the organization must take reasonable steps to provide meaningful access to programs, benefits, and services offered by the organization to persons with limited English proficiency (LEP)



6/20/2019 ... 81

Americans with Disabilities Act and Section 504 of the Rehabilitation Act

- Regardless of funding source the ADA requires
 - Entities (state/local governments, businesses, and non profits organizations) that serve the public are required to provide ASL interpreters, and other auxiliary aids, to ensure effective communication with deaf and hard of hearing individuals.
 - 28 C.F.R. S28 C.F.R. S35.160 (b)(2)
- Must ensure that communication with people who are Deaf or hard of hearing is equally effective as communication with people without disabilities



82

Equal Language Access

- Any individual who is LEP or who is Deaf/Hard of hearing is not denied the opportunity to access or obtain services and supports necessary fo their safety and well-being as a result of language barriers.



6/20/2019 ... 83

Who's covered?

1. Federally conducted programs
2. State/local government grantees
3. Non-governmental organization grantees



6/20/2019 ... 84

Any Federal Funding – Includes Funds From:

- Office for Victims of Crime (OVC)
- Office on Violence Against Women (VAWA)
- Family Violence Prevention and Services Act (FVPSA)
- Health and Human Services funded programs (HHS)
- Office of Juvenile Justice and Delinquency Prevention (OJJDP)
- Bureau of Justice Assistance (BJA)
- Bureau of Justice Statistics (BJS)
- Community Capacity Development Office (CCDO)
- National Institute of Justice (NIJ)
- Other examples agencies in your community have?



6/20/2019 ... 85

Policy Guidance
 Four Factors
 67 Fed. Ref. 41455

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
4. Resources available → However, there is Dept. of Justice guidance that lack of resources is no excuse for failure to comply.



6/20/2019 ... 86

We Can't Afford Language Access

Financial limitations do not provide an exemption from language access requirements. Investigators will look at:

1. Demonstrated previous success
2. Whether other essential services are being restricted or defunded
3. Whether additional revenues secured or technology used
4. Whether the grantee has an implementation plan
5. Nature and impact on LEP persons



6/20/2019 ... 87

Small Group Discussion

- When are the consequences of miscommunication or misunderstood communication? List examples
 - Significant examples
 - Less important
- Report back



6/20/2019 ... 88

Large Group Discussion

- How does lack of language access impact:
 - Victim safety
 - Offender accountability
 - Community safety



89

Language Access – The Right Thing to Do

- Organizations dedicated to supporting victims of crime work toward ensuring safety, healing and justice for those harmed by violence
- Investing in being proactive can ensure that all individuals with limited English proficiency or those that are Deaf/Hard of hearing can have equal, meaningful, and effective access to critical services.



6/20/2019 ... 90

Key Role of Advocacy for Immigrant and LEP Survivors

- Research has found that with support from advocates and attorneys who
 - Provide/help secure language access
 - Are knowledgeable about legal rights of immigrant survivors
- Immigrant and LEP survivors will
 - Access services, protection orders, immigration relief and justice system help



6/20/2019 ... 91

Compliance and Best Practices

- Role of language access plans for
 - Victim and legal services agencies
 - Law enforcement and prosecutors offices
 - The courts



92

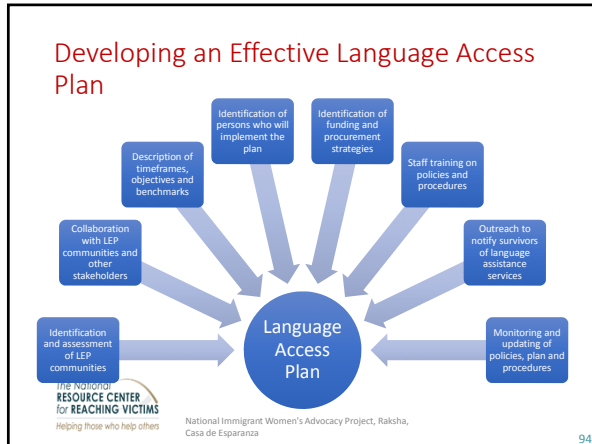
Signs An Agency Needs a Language Access Policy and Plan

- Relying on relatives, children, or friends to interpret for clients
- Only bilingual staff are used as interpreters, in addition to the other staff job responsibilities
- No formal arrangements are in place to hire competent interpreters
- Staff does not know how to contract for interpretation services
- Staff are turning away LEP individuals
- No translated materials



National Immigrant Women's Advocacy Project, Raksha, Casa de Esperanza

22



api gbv
ASIAN PACIFIC INSTITUTE
on GENDER-BASED VIOLENCE

Language Access for Law Enforcement

- Best practices to successfully investigate and prosecute cases involving non-English speaking victims


The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

api gbv
ASIAN PACIFIC INSTITUTE
on GENDER-BASED VIOLENCE

What is Meaningful Access?


- Meaningful access is defined in the US Department of Justice's own Language Access plan as:
- "Language assistance that results in accurate, timely and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior, as compared to programs or activities provided to English proficient individuals"

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others

DOJ Model Guidance 

- Police provide free language access to:
 - LEP persons who request it
 - *When officer decides it is helpful* to the criminal investigation or prosecution
- Police will inform members of the public that language assistance is available free of charge
- Language access provided in persons primary language

DOJ Sample Policy Center City Police Department


 Helping those who help others

**First responders –
What do you do when
you arrive at a crime
scene?**





 Helping those who help others




First Response 


- Locate and secure the scene
- Are there any weapons?
- Is anyone injured?
- Identify the people involved
 - Victim
 - Offender
 - Witnesses
- If offender is not on the scene
 - Where is the suspect?
 - Are they a continuing danger?
 - Is suspect in possession of weapon?




 Helping those who help others


DOJ and Exigent Circumstances 

- Use the most reliable *temporary* interpreter available to address exigent circumstances
 - Fleeing suspect
 - Weapons
 - Life threatening to the officer /victim/or public

 Helping those who help others


DOJ Requirements for Investigations & Interrogations 

- “A qualified interpreter shall be used for any interrogation or taking of a formal statement where the suspect or witness’ legal rights could be adversely impacted”
 - Criminal interrogations
 - Crime witness interviews
- Vital written materials translated into primary language
 - Miranda warnings


 Helping those who help others

Using Qualified Interpreters 



<p><u>Benefits</u></p> <ul style="list-style-type: none"> • Safety • ID offender • Locate weapons • Admissible statements (excited utterances) 	<p><u>Harms</u></p> <ul style="list-style-type: none"> • Mistaken ID of offender • Arrest of victim • Misinterpretation results in inaccurate statements • Undermine Prosecution • Trauma to children
--	--


 Helping those who help others

Bilingual Officer v. Interpreter





- ▶ Bilingual officers
- ▶ When they are interpreting, they are not investigating
- ▶ Biculturalism v. bilingualism
- ▶ Different words have different meanings:
 - ▶ e.g.: Variations on the word "highway" depending on what state you're from.
 - ▶ "500 feet" many communities don't know what that distance looks like.








The Difference Between --

- Securing the Scene
- Interviewing victims and witnesses







The Investigation Begins



- Call detective
- Call fire/rescue
- Take initial statements
- Call crime scene
- Photograph
- Formal interviews at the station
- Develop probable cause
- Prepare case for prosecution



On Scene Considerations



- Separating parties
- Use of two interpreters
- Is the abuser threatening in a different language or making intimidating gestures?
- Headset and background noise
- Consider cultural differences (ex. matriarchal vs. patriarchal)
- Be aware of the perception of an implicit bias



Language Resources



- Language line
- Video remote interpretation
- Video relay interpretation
- Department interpreters line developed in response to large local refugee population
- Immigrant community based organization partners
- Health care providers
- School systems
- Court systems



Language Access At the Court House For Limited English Proficient Survivors



108

Resources

- Case of Maria L.
- Detained Parent Directive Brochure
- Language Access to Court Services -Tool



The National
RESOURCE CENTER
for REACHING VICTIMS
Johanna Thraenkle/Repsoldner

109

Nebraska Maria Luis Case

Maria Luis is an undocumented Quiche-speaking Guatemalan who had 2 children with her in the U.S. the youngest (Angelica) was born in the U.S. with respiratory problems. Maria Luis took Angelica to the emergency room for treatment and she was given a Spanish (not Quiche) interpreter. She thought she was told to bring the child back for a follow up visit if Angelica did not get better. The hospital said that she was told to bring the child back for a follow up appointment. Angelica got better, so Maria Luis did not return for the follow up visit. The hospital reported her to CPS. CPS arrived with police, took her 2 children who were placed in foster care. Maria Luis was detained and turned over to DHS for deportation. While she in DHS custody, Nebraska sought termination of parental rights. The notice that arrived in detention was not in her native language and DHS did not take her to the dependency court proceeding. Maria Luis was deported to Guatemala and Nebraska called her to explain her parenting plan explained to her in Spanish over the phone. She found a priest in Guatemala who helped her try to comply with the plan from Guatemala. Her parental rights to both her children were terminated her children remained in foster care.

The National
RESOURCE CENTER
for REACHING VICTIMS
Helping those who help others

2
6


Maria Luis Case

- Let's read over the fact pattern
- In your small groups–
 - List all the points at which language access should have been provided to Maria
 - List what you could do for Maria



The National
RESOURCE CENTER
for REACHING VICTIMS
Johanna Thraenkle/Repsoldner

111

Large Group Discussion 

How would you advocate for Maria...

- At the hospital? With the police?
- The role CPS played? When Maria was detained?
- With regard to Maria's consulate?

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others Judicial Training Network

DOJ Guidelines on Language Access

- The use of qualified interpreters:
 - Not limited to courtrooms
 - For all types of proceedings
 - For motions, status hearings and trials
 - At clerks offices, file rooms
 - For court ordered services batterers treatment, therapy, drug counseling

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others 113

Language for Limited English Proficient Persons Can Be a Barrier To:

- Access to justice, benefits or services
- Exercising legal rights
- Filing for a protection order, custody, divorce, child support
- Participating in court proceedings
- Understanding information and instructions provided
- Complying with court orders

The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others Casa de Esperanza 37

DOJ LEP Directive to State Courts on Federal Civil Rights Requirements (8/20/2010) - Interpreters

- LEP individuals are to be provided qualified interpreters
 - For all parties, defendants and witnesses and all persons whose presence is necessary or appropriate (e.g., parents of minor crime victims)
 - In ALL court room proceedings whether civil, criminal, administrative or other
 - LEP individuals should not incur any fees for these services



38

DOJ LEP Directive to State Courts on Federal Civil Rights Requirements (8/20/2010) - Interpreters

- LEP individuals are to be provided qualified interpreters
 - Not restricted to court rooms, also other court functions including:
 - o Clerks offices, records room
 - o Alternative dispute resolution
 - o Pro se clinics
 - o All interactions with court appointed personnel such as guardians ad litem or court psychologists



39

DOJ LEP Directive to State Courts on Federal Civil Rights Requirements (8/20/2010)

- Translation Requirements for Documents
 - Translated petitions, court orders, and materials explaining rights and obligations
 - Post signs and public service announcements in foreign languages advertising free qualified interpreters
 - Language cards to accurately identify individual language needs



117

DOJ LEP Directive to State Courts on Federal Civil Rights Requirements (8/20/2010)

- Translation Requirements for Documents
 - All languages spoken by the lesser of 5% of population or 1000 individuals
 - When fewer than 50 persons = 5% written notice in that language of right to receive oral interpretation



118

Immigrant Parents and Child Custody

In re Interest of Angelica L., 277 Neb. 984 (2009)

- Parents have a constitutional right to custody (absent unfitness)
- Applies to all families without regard to:
 - Undocumented immigration status
 - Immigration detention
 - Deportation
- Overriding presumption that:
 - Parent-child relationship is constitutionally protected
 - In children's best interest to stay with/be reunited with their parent(s)
- Child's best interests is most important
 - A comparison of natural vs. adoptive parent's cultures, countries or financial means is not to be made



119

A Family Reunited



120

Detained Parent Directive Aug. 2017

- If parents are detained:
 - Placement near family court when ongoing family court/child welfare cases
 - Bring parents to family court to participate in cases involving children
 - Alternate: video or teleconference participation
 - Facilitate visitation when required by family/child welfare court order
 - Help children travel with deported parent –obtain passports for children



121

Advocates, Attorneys, and Justice System Personnel Need To Know

- Survivor’s Legal Right to
 - Language Access and
 - Immigrant survivors legal rights to
 - Family court protections
 - Immigration Relief
 - Publicly funded benefits and services
 - Assistance for crime victims
 - Have the perpetrator criminally prosecuted



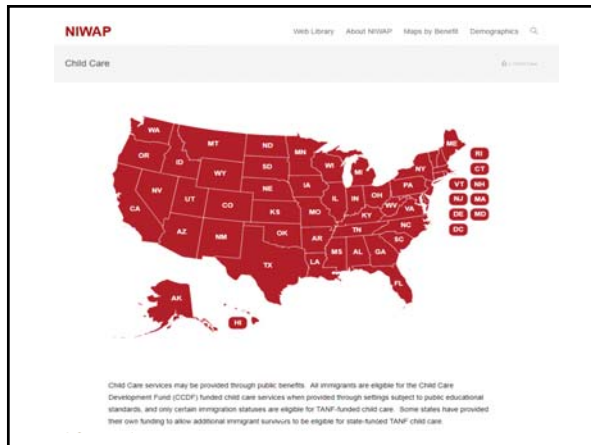
6/20/2019 ... 122

NIWAP Web library



123





- ### SJI Funded Resources: Menu of Topics
- Victim protection based forms of immigration relief: (VAWA, U and T Visas, SIJS)
 - VAWA confidentiality limitations on courthouse immigration enforcement and state court discovery (family, civil, criminal)
 - Using legally correct information to address immigration allegations in custody, divorce, protection order, child/spousal support & child welfare cases
 - U and T Visa certification by state court judges
 - Special Immigrant Juvenile Status findings best practices
 - Public benefits access for immigrant victims
 - Health care, housing, TANF, SNAP, Education and more
 - Improving access to justice for immigrant and LEP persons
- The National RESOURCE CENTER for REACHING VICTIMS
Helping those who help others
Judicial Training Network

Advocacy for Language Access for Your Clients With Other Agencies



6/20/2019 ... 127

Large Group Discussion

- What steps have you taken to secure language access for your LEP client from other agencies in your communities?



6/20/2019 ... 128

Case Planning with LEP, Deaf and Hard of Hearing Victims

- Provide language access to your agency's services
- Make language access to other agencies services a central part of your case planning
- Benefits
 - Build relationships that foster language access and better assistance to immigrant and LEP survivors



6/20/2019 ... 129

Promising Practices For Victim's Court Cases:

- Requesting interpreters in advance
- Working with interpreters in the court room
- Approaching the court regarding
 - Errors in interpretation
 - Quality of interpretation
 - Interpreters giving legal advice



130

Language Access Enforcement



6/20/2019 ... 131

Limited English Proficiency (LEP)
LEP.gov A Federal Interagency Website

Department of Justice LEP Guidance for Recipients and Agencies

Department of Justice LEP Guidance for Recipients and Agencies

- LEP Guidance for DOJ Recipients
- Language Access Guidance Materials
- State Courts
- Corrections
- Police and Sheriff's Departments
- Guidance to State and Local Government
- Guidance for Federal Agencies

LEP Guidance for DOJ Recipients [TOP]

- 2002 LEP Guidance for DOJ Recipients - June 18, 2002
- General Guidance Issued with Executive Order 13166 - August 16, 2000
- LEP Enforcement and Compliance Activities

Language Access Guidance Materials [TOP]

RESOURCE CENTER for REACHING VICTIMS
Judicial Training Network
Multi-State Training

132

Being an advocate means working towards greater access

- **If no meaningful language access is provided:**
 - Appeal to the agency's efforts to be accessible and responsive to the community.
 - Inform or educate the agency that if they receive **federal funding**, they are obligated to provide language access services for individuals with LEP.
 - Identify the process for filing a complaint <http://ojp.gov/about/ocr/complaint.htm>
- **If an interpreter is not qualified or is behaving unethically:**
 - Check the LEP plan for the organization or system to identify the process to file complaints. Document it so to use a different interpreter next time.

What other strategies?



133

Preparing to file a complaint when language access is denied

- Document what occurred
 - Include names, badge numbers
- Involve supervisors
 - Document their response
 - This may resolve the case and build important relationships
- Document patterns with multiple clients
- Include specifics



6/20/2019 ... 134

Casa de Esperanza

Filing a Complaint

- With the civil rights division of the federal agency that funds the agency that is violating language access laws
- Anyone can file
 - Client, Advocate, Attorney, Other person with the information
- Federal agency staff investigate
 - Can lead to termination of federal funding



6/20/2019 ... 135

Casa de Esperanza

Technical Assistance and Materials

- Power Point presentations and materials for this conference [Will create link to materials webpage]
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Web Library: www.niwaplibrary.wcl.american.edu



Questions



Evaluations



CONTACT US

Aparna Bhattacharyya
Raksha, Inc

Leslye Orloff
NIWAP

Leo Martinez
Casa de Esperanza

404-876-0670
director@raksha.org
www.raksha.org

202-274-4457
niwap@wcl.american.edu
wcl.american.edu/impact/initiatives-programs/niwap/

404-702-2300
lmartinez@casadeesperanza.org
www.nationallatinonetwork.org