

Language Access and Law Enforcement: The Why and How in Improving and Increasing Language Accessible Resources for Law Enforcement

Day One
Workshop 2B
New Orleans, LA

Introductions

- API Representative
 - Asian Pacific Islander Institute on Domestic Violence
- Officer Michael LaRiviere
 - Officer, Patrol Division, Salem Police Department
- Inspector Antonio Flores
 - Inspector, Special Victims Unit, San Francisco Police Department

Major Challenges Working with Immigrant Victims of Crime

- Language, limited English proficiency (LEP)
- Fear of deportation
- Lack of knowledge of legal rights
- Do not trust that police/prosecutors will help them
- Lack of reporting and/or cooperation as the case moves forward

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

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?



*What do you do when the individuals
at the scene are LEP?*

*How can you get the information you
need to secure the scene?*

Title VI - Civil Rights Act of 1964

- Any recipient of federal financial assistance has a responsibility to ensure access/understanding to LEP persons
- Department of Justice (DOJ) strongly suggests, but does not require a written language assistance plan be put in place
 - This does not preclude the obligation of the recipient
- DOJ discourages use of informal interpreters (family members, guardians, caretakers, friends) except in limited or emergency situations
- DOJ leaves the determination of what documents need to be translated for the benefit of the LEP persons up to the recipient

DOJ Model Guidance

- Police provide free language access to:
 - LEP persons who request it
 - *When an 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 is provided in person's primary language

DOJ and Exigent Circumstances

- Use the most reliable *temporary* interpreter available to address exigent circumstances:
 - Fleeing suspect
 - Weapons
 - Threat of life to an officer, victim, or the public

Exigent Circumstances: What You Do Now Matters Later

PROS

- Safety
- ID offender
- Locate weapons
- Admissible statements
(Excited Utterances)

CONS

- Mistaken ID of offender
- Arrest of victim
- Misinterpretation
results in inaccurate
statements
- Trauma to children

Large Group Discussion

Now that the emergency is over, how do you work with victims, witnesses, and offenders who are limited English proficient (LEP)?

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

Language Resources

- Language Line
- Video Remote Interpretation
- Department interpreters line developed in response to large local refugee population
- Immigrant community based organization partners
- Health care providers
- School systems



Tips for Working with Interpreters

- Control the interview
- Pre-session with the interpreter
 - Where are they located?
 - Establish what your rules are
 - How do you want the interpreter to interpret?
- Interpreter has to interpret everything that you say
 - Example: when you are explaining confidentiality

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

Points of Identification

- Dispatch
- Walk-in
- On the scene
- Accompanying service agency (e.g., Child Protective Services)
- Call into station
- Others?

Identifying LEP Persons

- Use open-ended questions and clarifying questions
 - Avoid asking questions that only require a one word answer
- Consider whether the individual mixes English and another language
- Listen to whether the individual uses incomplete sentences to explain the situation
- Country of origin – starting point, but may not be the primary language of the LEP individual
- What if the individual does not want to get an interpreter?
 - Stigma
 - Fear of causing inconvenience → “ I will be requesting an interpreter because I need one to do my job...”

Definitions

- **Interpretation** - Process of orally rendering communication from one language to another language (interpreter)
- **Translation** – preparation of a written text from one language into an equivalent form in another language (translator)
- **Qualified Bilingual Member** - Department members who identify themselves as “bilingual” must demonstrate, through a formal procedure, which has been established by the City or Department, competency to communicate in the source language by demonstrating the ability to listen to a communication in one language (source language) and orally convert it to another language (target language) while retaining the same meaning

Modes of Interpretation

- **Simultaneous** – The process of orally rendering one language into another language virtually at the same time that the speaker is speaking
- **Consecutive** – The process of orally rendering one language into another language after the speaker has completed a statement or question
- **Sight Translation** – The rendering of material written in one language into spoken speech in another language

Summary ≠ Interpretation

- Summarization is
 - Not allowed in legal and medical settings due to professional standards
 - Can lead to the exclusion of crucial information in interviews or interrogations
- Untrained interpreters resort to this mode because they lack the skills for simultaneous or consecutive interpretation
- Cannot use an untrained bilingual individual, who might use their discretion to say what they view is important or summarize, thereby not accurately and completely interpreting

Bilingual Staff versus Interpreter

Bilingual Staff

- Fluent in English and native language
- Not a conduit or neutral party
- No government standard, but recommends assessment
- Qualified

Interpreter

- Spoken language from one language to another
- Training
- Neutral party
- Fluency in English and native language
- Conduit to communicate
- In-person
- Telephonic

Bilingual Staff as Interpreter Considerations

1. Are you fluent in English and the foreign language?
2. Are you able to interpret in the consecutive or simultaneous mode accurately?
3. Are you familiar with specialized terminology of domestic violence & sexual assault in the source language?
4. Can you avoid a conflict of interest?
5. Can you stay in the interpreter's role and avoid functioning in the police role?
6. Will there be confusion by your change of roles?
7. Could you be a potential witness in the case?
8. Will you be interpreting for the victim and not the batterer?
9. Will waiting for a qualified interpreter negatively affect a victim's immediate safety?

Meza Case - 2008

- Charged with first degree murder – Charge was dropped to manslaughter
 - Baby died after Meza shook his son so violently the child's brain began to swell, ultimately killing him
 - Detectives used a Spanish speaking officer to assist with the interview
 - Review of the tapes revealed that the officer interpreting left out some of the information, misinterpreted several statements made by the suspect and the detective

Assessing Interpretation Ability

- **Certified:** Passed language testing specializing in legal or medical settings; should provide certification number and state; native or near native fluency
- **Registered:** completed an English fluency test; should provide registration number and state registered
- **Qualified:** May not be certified or registered, but has completed interpreter trainings, fluent in both languages, and understands interpreter ethics and canons
- Assessing the interpretation skill without certification
 - Identify the skill level needed
 - Having bilingual staff assess
 - Using articles and texts in the target language

Code of Ethics and Professional Conduct

- Accuracy and completeness
- Representation of qualifications
- Impartiality and avoidance of conflict of interest
- Professional demeanor
- Confidentiality
- Restriction of public comment
- Scope of practice
- Assessing and reporting
- Impediments to compliance
- Duty to report ethical violations
- Professional development

Working Effectively with an Interpreter

- Explain to the interpreter the circumstances
- Everything said by you and the LEP individual is interpreted (including false starts, mumbling, cursing, thinking out loud, etc.)
- Maintain pauses/hand signals to regulate the speaker
- Be attentive to extraneous noise
- Use a team of interpreters for events lasting more than two hours
- Be aware of the LEP individual's education level
- Explain and “break down” the legal system and legal concepts
- Do not give the interpreter any explanatory responsibilities

Working Effectively with an Interpreter by Phone

- Use straight, simple, direct language, short phrases, and first and second person
- Speak slower, not louder
- Go sentence by sentence and pause
- Talk through, not to, the interpreter; continue to speak to the CLIENT and maintain eye contact as if the interpreter is not present
- Don't ask interpreter for his/her opinion about the LEP individual
- Have patience since interpreted interviews will take longer
- Be aware of interpreter fatigue
- Check and recheck to be sure the client understands using open-ended questions
- Don't be afraid to step in if you see something amiss
- Thank the interpreter

Telephonic Interpreter – Language Access Plan Protocol

- Ensure that patrol can access the telephonic interpretation service
 - Smart phone
 - Need to radio to have phone brought to them
 - Personal cellphone
- Train officers to recognize bad interpretation and ask for a new interpreter when needed
 - Factor in circumstances such as time, emergency, and necessity
 - Inform the interpreter that you will be requesting another interpreter; then, tell the client via interpreter “I will be requesting a new interpreter, please wait as I call in again for a new interpreter”
 - Best practice is to record the bad interpreter’s ID number

Vetting and Preparing the Third Party

- Qualifying questions
 - Ask about experience or credentials – Is the person educated in both languages? Have they worked in both languages?
 - How did they learn the language?
 - Relationship to the party?
- Review interpreter role
 - Complete
 - Accurate
 - Neutral
- Record the use of a third party bilingual speaker

Qualifying an Interpreter: Spotting a Bad Interpreter

- Can you understand the interpreter?
- Does the LEP individual look confused?
- Does the interpreter appear confused?
- Is the interpreter engaging in side conversations?
- Is the interpreter engaging in conversations with the individual before/after the interpretation meeting?
- Is the interpreter summarizing?
- Is everything being interpreted?
- Is there a change in the individual's demeanor?

Relay Interpreting



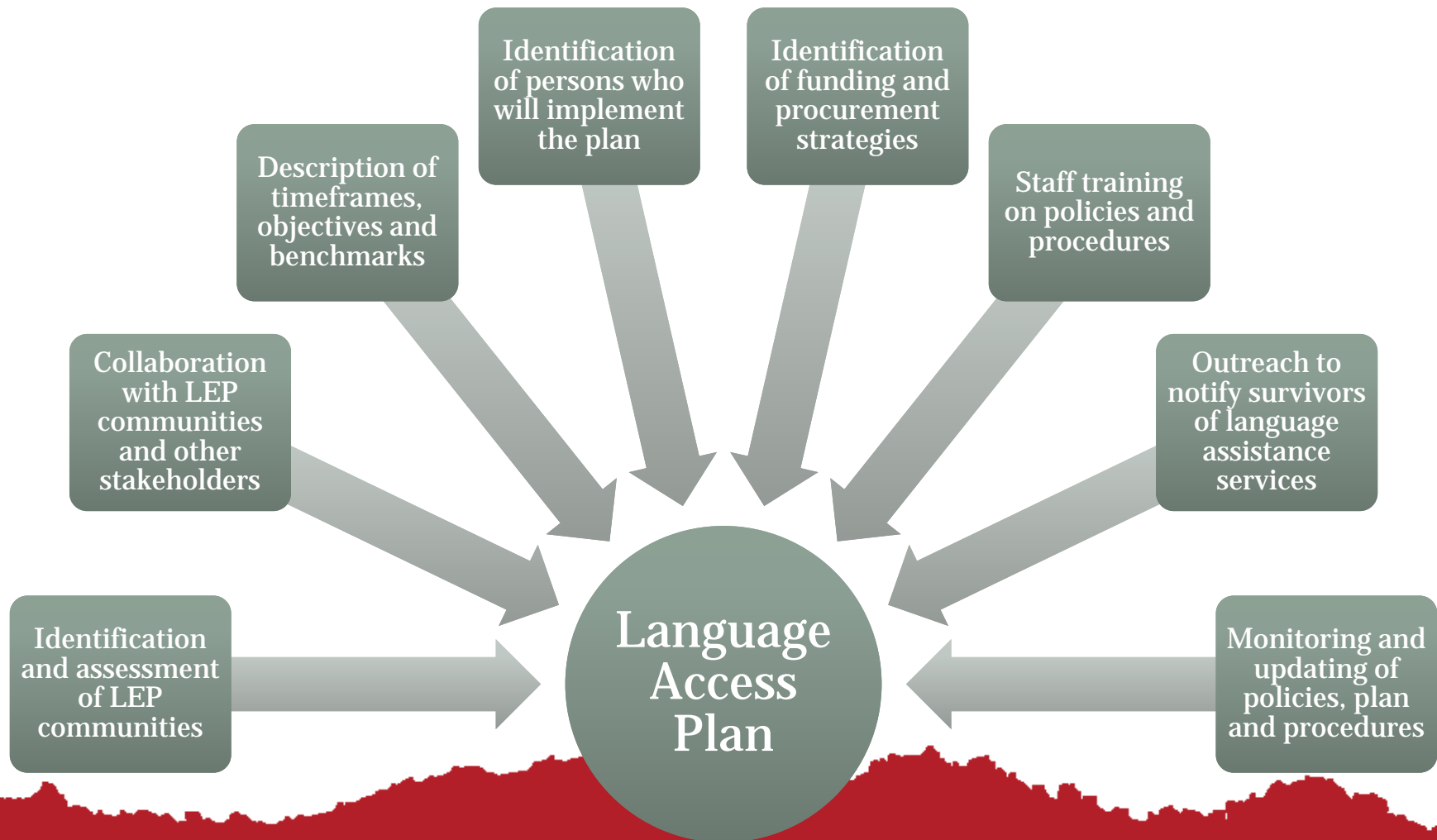
Considerations

- Use of children? Family of victim or bystander?
- Is there an injury, imminent harm or, for immediate information gathering, a need to pursue a suspect while waiting for an interpreter?
- Will there be a conflict of interest?
- Seriousness and injury?

Signs You Need a Policy and Plan

1. Relying on relatives, children, or friends to interpret for clients
2. Only bilingual are used as interpreters, in addition to the other staff job responsibilities
3. No formal arrangements are in place to hire competent interpreters
4. Staff does know how to contract for interpretation services
5. Staff are turning away LEP individuals
6. No translated materials

Developing an Effective Language Access Plan



LEP Plan Self Assessment

Small Group Work

1. How does the LEP population come into contact with your agency?
2. Who is your LEP population?
3. How are you serving LEP populations?
4. What trainings for staff do you have in place?
5. How do you reach your LEP populations?
6. What are your policies and procedures?

Creating Language Accessibility

- Policy: Standards and Guidance -These include definitions, authorities cited, and the relation to organizational work
 - Plan: Map/Blueprint
 - Who will implement?
 - Staff training and procedures?
 - Identifying LEP/Deaf and hard of hearing communities
 - Monitoring effectiveness and updating policies
 - Outreach and Notices to LEP communities
 - Timeframes and benchmarks
 - How will you provide meaningful access?
- Procedures
- Detailed explanations that specify steps to achieve access including staff roles, phone numbers, and interpreter contact process

Sample Policy Statement

“It is the policy of this agency to provide timely meaningful access for LEP persons to all agency programs and activities. All personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services. All personnel will inform members of the public that language assistance services are available free of charge to LEP persons and that the agency will provide these services to them”

-Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs. Federal Coordination and Compliance Section, Civil Rights Division, U.S. Department of Justice. Pp.16. May 2011

Which Languages are Spoken in Your Community?

Identify the number or proportion of individuals with LEP eligible to be served or likely to be encountered by your program

Who are the people who live in the community you serve?



LEP Maps - Google Chrome

www.lep.gov/maps/

Apps iGoogle Lenovo Recommen... Deaf or HOH Resou... Mapping Project Re... EOIR Technology Omnonomify It! Ohio Privileged Co... top Man who sexually a... Other bookmarks

Limited English Proficiency (LEP)

A Federal Interagency Website

LEP.gov
Mission Statement

LEP Information

- Frequently Asked Questions
- Executive Order 13166
- Resources by Subject
- Interpretation and Translation
- LEP and Title VI Videos
- Demographic Data
- LEP Mapping Tools

LEP Resources and Compliance

- Federal Agency LEP Plans
- LEP Guidance for Recipients
- DOJ LEP Guidance for Recipients
- Recipients of Federal Assistance
- File a Complaint with DOJ
- DOJ Agreements and Settlements

Department of Justice

- Civil Rights Division Page
- Federal Coordination and Compliance Section (FCS) Page
- DOJ Publications

LEP.gov

- Search LEP.gov
- Suggest LEP Resources
- Report Broken Links on LEP.gov
- Privacy and Security Notice
- Updated: August 12, 2015

Limited English Proficient (LEP) Maps

Language Map App

The Civil Rights Division's Language Map App is an interactive mapping tool that helps users find out the concentration of and languages spoken by LEP individuals in a community. Click on your state or county to identify the number or percentage of LEP persons, download language data, or visually display LEP maps for presentations. We encourage users to test the features of the Language Map App and provide feedback to help us improve functionality.

[Language Map App](#) [Accessible Alternative with Downloadable Data](#)

Additional LEP Maps

Total Persons 5 Years and Over Who Speak a Language Other Than English at Home and Speak English Less Than "Very Well"

To view a map, choose the appropriate geographic area and select "Get Map". For an accessible description of a map, choose the appropriate geographic area and select "Get Description of Map"

Note: These maps are for informational purposes only. Although demographic language data may be useful in considering how language assistance is provided in a particular contact or setting, federal and

MN ACS12 CNTY LE...pdf MN ACS12 CNTY LE...pdf MN ACS12 CNTY LE...pdf

Show all downloads...

Which Languages are Spoken in Your Community?

1. What data does your organization have on language and service population?

Kidsdata.org

<http://www.kidsdata.org>.

Civil Rights Division LEP

Maps

<http://www.lep.gov/maps/>

2. Review US Census data on the use of languages in the US

<http://www.census.gov/hhes/socdemo/language/>

and in your state,

<http://www.census.gov/population/www/cen2000/briefs/phc-t20/tables/tab01.pdf>

Implementing a Language Access Plan

1. Who is in charge?
2. Who are you serving?
3. What will be done?
4. Who pays?
5. What training works and when?
6. How will you providing access?
7. Who will get feedback and monitor effectiveness?
8. What are your resources?

Allocating and Building Resources

Budgeting for language access:

Include a line item to pay for interpreters, translators, and compensation for bilingual staff and partner agencies



Implementation

Consider implementation of your Language Access Plan

How this will be implemented throughout the organization (job descriptions, employee handbook, etc.)?



Implementation



1. Which staff positions will take responsibility for what tasks?
2. Helpful to have a definitions section for terms such as meaningful access, interpreter, translation
3. Are there other policies that you need to establish?

Staff Training

Now that your plan is developed and policies, protocols and procedures updated, make sure your staff is familiar with and trained on your language access plan



Staff Training

1. Comprehensive – relevant law, organizational assessment, language access plan, relevant policies, protocols and procedures and what to do when an unexpected language is encountered
2. Proper way to communicate with a survivor using an interpreter, and practice doing so
3. Clear guidelines prohibiting the use of family members, children and other participants as interpreters
4. Mechanism for training new staff as they are hired, and refreshers as circumstances change or new tools or resources are identified

Community Outreach

How will you notify survivors with LEP of their rights to language access and the services you have available to them?



What about signage?

Community Outreach

1. Be inclusive. Invite culturally specific organizations to meet to discuss the services available and to assess the barriers to services for those communities
2. Build relationships with allies in the community
3. Hold community informational workshops on topics important to community members, i.e. healthy relationships, legal remedies, healthy child development, etc.
4. Create a PSA to be featured on culturally specific radio stations or public access stations
5. Go to where community members are: churches, hair salons, laundromats, schools, community centers
6. GO TO WHERE THE COMMUNITY IS. DON'T EXPECT THEM TO COME TO YOU

Monitoring and Compliance

Establish an annual review of your plan

- How have demographics changed?
- How has your plan affected services?
- How did you respond to language needs as they arose?
- How do you address unexpected languages?
- What should you adapt or change for next year?
- How are you building capacity in the long-term, i.e. fundraising, participation satisfaction, staff hiring and training, etc.?
- Utilize listening sessions, surveys, interviews and other feedback tools to gather information on how LEP survivors feel about the services they received and their ability to fully access those services



Technical Assistance and Materials ^{W1}

- Power Point presentations and materials for this conference at www.niwap.org/go/NOLA2015
- **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail niwap@wcl.american.edu
- Web Library: www.niwaplibrary.wcl.american.edu

Slide 50

W1

Why is this slide here? Is this a mistake?

Wayne, 10/19/2016

Questions



Evaluations



Thank you!

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