

Access to Justice

Language Access for Victims with Limited English Proficiency

Goals for Today



1. Create awareness around improving accessibility of your program's services to LEP Victims of Crime
2. Support you in better understanding, and meeting your obligations as service providers
3. Provide with the tools and resources to support you in developing an Effective Language Access Plan

Part 1:

Overview of Demographics and Advocacy Framework

Creating a Comprehensive Framework

Fundamental guidelines:

- DV violates the rights of survivors and their children by creating unsafe & fearful environments
- Their safety must be central to any work we do
- Safety is unattainable unless we practice cultural and linguistic competency consistently at the organizational and individual level



Foreign Born Population in the US

- Of the total foreign-born population in U.S. (39.9 million):
 - 53% were born in Latin America and the Caribbean
 - 9.3% are from the Caribbean
 - 28% were born in Asia
 - 12% were born in Europe
 - 4% were born in Africa
 - 2% were born in Northern America
 - 0.5% were born in Oceania

(U.S. Census; 2010 American Community Survey Report)

Foreign Born Population in the US (2)

Foreign-born residents make up approximately 13% of the population today, compared to 15% in 1910 at peak of immigration influx.

Barriers to Seeking Help

- Lack of knowledge and misinformation about the U.S. legal system (and negative experiences from country of origin)
- Fears of the Police and Judicial System, of deportation, of social services and child welfare agencies, etc.
- Linguistic and Cultural barriers
- Discrimination
- Economic and Employment challenges
- Isolation from family and community

Who are individuals with Limited English Proficiency (LEP)?

- Individuals with LEP are those individuals who do not speak English as their primary language and have a limited ability to read, write, speak or understand English
- Deaf (uppercase 'D') refers to an identity with its own culture, language and diverse communities
 - Deaf and hard of hearing often misunderstood as a disability issue, is also a language access issue

Statistics on LEP

The Census revealed that 25.2 million persons over the age of five living in the United States spoke a language other than English and did not speak English “very well.”

- Of those, 11 million did not speak English at all or spoke it poorly
- The number of individuals with LEP living in the United States increased by approximately 80 percent between 1980 and 2010¹

¹*Limited English Proficient Individuals in the United States: Number, Share, Growth, and Linguistic Diversity*, Migration Policy Institute, December 2011.

Languages Spoken in the U.S.

According to the Census, there are more than 300 languages spoken in the United States:

- Spanish accounts for 66% of LEP population
- Chinese: 6%
- Vietnamese: 3%
- Korean: 2.5%
- Tagalog: 1.9%

- Russian: 1.7%
- French Creole: 1.3%
- Arabic: 1.3%
- Portuguese or Portuguese Creole: 1.1%
- African languages: 1.1%

Note: Important to assess local demographic needs

Why provide Meaningful Language Access?

1. It's the right thing to do
2. It improves access to services and enhances outcomes & access to safety
3. It's a Legal Obligation



1. It's the Right Thing To Do

- As organizations dedicated to ending and preventing gender based violence we work toward **ensuring safety, healing, and justice** for those harmed by violence.
- If we are **proactive**, we can ensure that all individuals with LEP/Deaf individuals have meaningful access to critical services.

2. Language Access Enhances Outcomes and Access to Safety

- Research shows that domestic violence survivors with LEP were more likely to seek services if those services were provided in their language
- Language access *enhances safety* and improves outcomes, enabling survivors to understand their rights and options and make informed decisions
- Survivors feel more supported when linguistically accessible services are provided

Language Access is Essential to Safety



3. It's a Legal Obligation

- A) Any organization that receives federal financial assistance—either directly or indirectly—is required to comply with **Title VI of the Civil Right Act of 1964 (*Title VI*)**; and the Omnibus Crime Control and Safe Streets Act of 1968 (***Safe Streets Act***)

- B) Organizations are also obligated to comply with **the Americans with Disabilities Act (ADA)**, 1990; and Section 504 of the **Rehabilitation Act** of 1973

Requirements under ADA 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.

Title VI of the Civil Rights Act of 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.”

Section 601 of Title VI, 42 U.S.C. sec. 2000d

Title VI of the Civil Rights Act of 1964 (2)

The U.S. Supreme Court stated that one type of national origin discrimination is discrimination based on a person's inability to speak, read, write or understand English (*Lau v. Nichols*(1974))

President Clinton signed Executive Order 13166 in Aug. 2000: "Improving Access to Services for Persons with Limited English Proficiency."



Implementation of Title VI

The Executive Order requires Federal agencies to:

- examine the services they provide;
- identify any need for services to those with LEP; and
- develop and implement a system and plan to provide those services so LEP persons can have meaningful access to them.

The Executive Order also requires that the Federal agencies work to ensure that **recipients of Federal financial assistance *provide meaningful access*** to their LEP applicants and beneficiaries.

Part 2:

Ensuring Meaningful Access for Victims of Crime with Limited English Proficiency

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”

Who qualifies as a Recipient of Federal Assistance

Federal financial assistance includes grants and training. Sub recipients are also covered, when federal funds are passed on from one recipient to another (e.g., state funds that are a pass through of federal dollars).

Recipients of federal funds range from state and local agencies, to nonprofits and other organizations.

Group Question #1

If an organization gets only some federal funding to support a specific project or program, what part of the organization's activities are affected by Title VI LEP requirements?

- A. Only that project/program within the organization that receives federal funding
- B. Only projects specifically focused on immigration services or outreach to underserved communities
- C. All of that organization's activities, including those not funded by federal dollars

What part of an organization's activities are covered under Title VI?

- Title VI covers a recipient's entire program or activity.
- Obligated to take ***reasonable steps*** to ensure that individuals with LEP have ***meaningful access*** to all of the benefits and services provided by that organization

Guidelines to Establish What are Reasonable Steps for LEP Access

4 Factors:

1. Number or proportion of LEP individuals eligible to be served or likely to be encountered by your program
2. Frequency of contacts by individuals with LEP
3. The nature and importance of the programs, activity or services to people's lives
4. Resources available and costs associated

(67 Fed. Ref. 41455)

Taking Reasonable Steps to Provide Meaningful Access

Refers to being committed and prepared to provide critical services that support the well-being and safety of survivors by:

- having a **proactive** plan in place to address the needs of survivors with LEP
- Recognizing that the bar of what is considered “reasonable” increases with time.



Group Question #2

True or False?

If my county or city has an “English only” law, then my organization does not have to comply with Title VI LEP Requirements.

What if my state or jurisdiction has an “English only” law?

- Recipients continue to have a legal obligation under federal law to provide meaningful access for LEP persons (also true regardless of immigration status).
- **State and local laws may provide additional obligations** to serve LEP individuals, but cannot compel recipients of federal financial assistance to violate Title VI.

Remarks of Assistant AG at Federal Interagency Working Group on LEP

- “I want to point out 2 key areas of guidance... that applies across all agencies and recipients:
 1. First, as time goes on, the bar of reasonableness is being raised. The need to show progress in providing all LEP persons with meaningful access increases over time..
 2. The second cross-cutting point is that, even in tough economic times, assertions of lack of resources will not provide carte blanche for failure to provide language access. Language access is essential and is not to be treated as a “frill” when determining what to cut in a budget...”

[PREPARED REMARKS OF ACTING ASSISTANT ATTORNEY GENERAL LORETTA KING th At the April 20 , 2009 Meeting of The Federal Interagency Working Group on Limited English Proficiency](#)

“But we can’t afford to provide language access”

Financial constraints do not exempt federal fund recipients from Title VI language access requirements.

Office of Civil Rights looks at:

- Previous success providing meaningful language access;
- Whether other essential operations are being restricted or defunded;
- Whether additional funds are secured;
- Options for using technology (i.e. video remote interpretation or telephonic interpretation);
- Whether grantee has an implementation plan; and
- Nature and impact on LEP persons

Part 3:

Language Access Plan, Work with Interpreters and Resources

Building Organizational Access



Best strategy for providing meaningful access is to be prepared and develop a Language Access Plan.

Developing an Effective Language Access Plan

Implementing a language access plan is a **proactive** approach to assisting victims of crime who have limited English proficiency:

- Reduces the language access obstacles for victims of crime and advocates
- Jobs are more efficient
- It's the right thing to do

Language Access Plan Development

Steps:

1. Which languages are spoken in your community
2. Which languages are spoken by those who come to **Our** program?
3. How are we currently providing language access? (both oral and written)
4. Developing a Plan for Improvement
5. Allocating and Building Resources
6. Formalizing the Plan
7. Implementation
8. Staff Training
9. Community Outreach

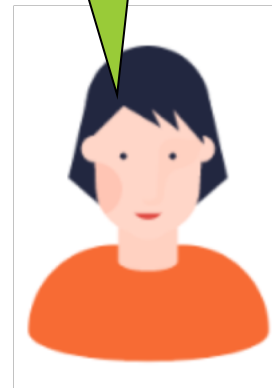
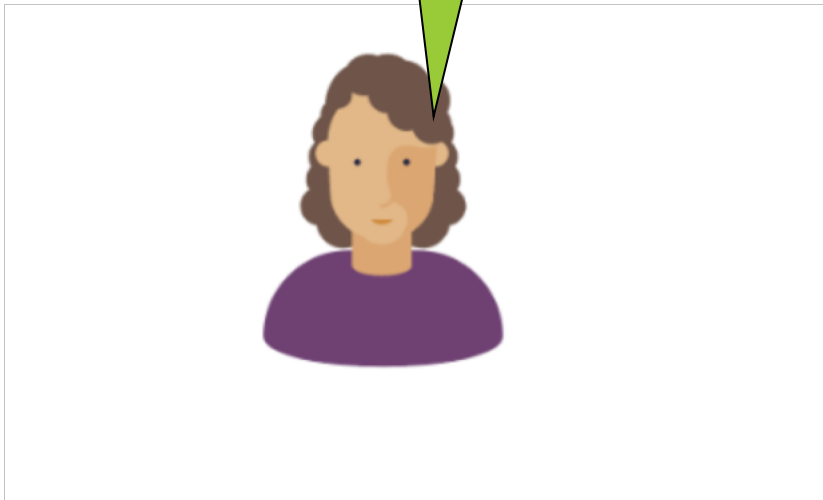
Using Multiple Strategies

- hiring bilingual and bicultural advocates
- offering translated written materials/captioned videos
- using in-person interpreters
- using a telephone/video relay interpreter service
- establishing co-advocacy arrangements with community-based programs
- establishing a language bank & developing community capacity
- establishing contracts with interpreting agencies

Working with Interpreters

- Being bilingual ≠ Interpretation
- Interpretation vs. Translation
- Be aware that using a third party bilingual advocate to interpret may bring up issues such as privilege
- Summarization is NOT interpretation
- Interpreters must be neutral and ideally have native- like proficiency in both the target language and English.

Speaking in the First Person



Positioning

Hmm, I wonder where she should sit?



Hmm, where should I sit?

Monitoring and Compliance



Now that you have a comprehensive plan to provide meaningful language access to LEP victims of crime, follow up with a built-in plan to monitor the implementation.

Monitoring and Compliance (2)

1. Establish an annual review of your plan.
2. Examine the following:
 - How have the 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 progressing on your language access plan to build capacity in the long-term, i.e. fundraising, participation satisfaction, staff hiring and training, etc.?



Monitoring and Compliance (3)

- Include the input of staff, participants and partners engaged in the plan
- utilize listening sessions, surveys, interviews and other feedback tools to gather information on how LEP victims of crime feel about the services they received and their ability to fully access those services.



Systems Advocacy and Enhanced Collaborations

- Coordinated Community Response
 - Review issues of language access to services of:
 - Courts
 - Law enforcement
 - Other services (medical, CPS, etc.)
- Collaborations with immigrant advocacy organizations and community based organizations
- Get the word out in immigrant communities that your services are available regardless of immigration status or language spoken

Additional Resources

Language Access Resources

Translated Legal Glossaries

Arabic, Armenian, Cantonese, Chinese, French, German, Hindi, Hmong, Korean, Laotian, Mien, Mong, Punjabi, Romanian, Russian, Spanish, Urdu, and Vietnamese

- [Superior Court Sacramento Glossary](#)
- [Washington Courts Glossary](#)

Domestic Violence Specific Resources

The National Advisory Board of “*Serving Limited English Proficient (LEP) Battered Women: A National Survey of the Courts’ Capacity to Provide Protection Orders*” developed a Code of Professional Responsibility for Interpreters Serving Limited English Proficiency (LEP) Victims of Domestic Violence.

- These canons cover interpreting services in non-judicial settings, such as intake and meetings with service providers, interviews with police, and communications with advocates and medical personnel.

[Deaf Hope Trainings](#): How to be accessible to Deaf survivors of Domestic Violence and Sexual Assault.

Language Access Plan Development Resources

- Review [US Census data for current immigrant populations](#), also consider predicted populations.
- Review [US Census data on the use of languages in the US](#).
- Review [U.S Census data on the use of languages in your state](#).

Language Access Plan Development Resources (2)

U.S. Department of Justice

- Civil Rights Division
[Federal Coordination & Compliance Section FCS](#)
- [Limited English Proficiency Federal Interagency site](#)
(LEP.gov)

Templates, samples, and toolkits

- Interpretation Technical Assistance Resource Center
- Casa de Esperanza/ National Latin@ Network [LEP Toolkit](#)
- [NIWAP Translations for Immigrant Legal Rights](#)
- [Migration Policy Institute's Language Access Portal](#)
- [DOJ/HUD/HHS guidance letter on access to services necessary for life or safety](#)

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