

Language Access for Law Enforcement: Adhering to the Requirements of Title VI

Language Access Webinar Series

Welcome

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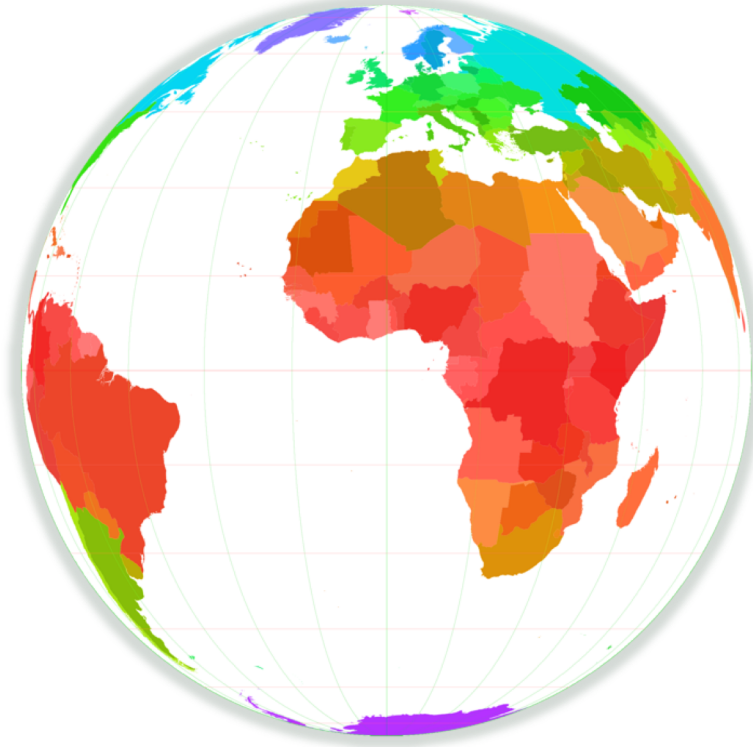
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Bienvenidos

Willkommen

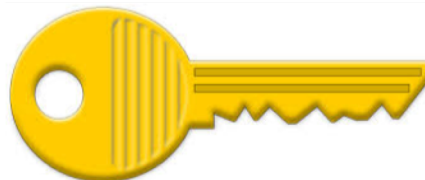
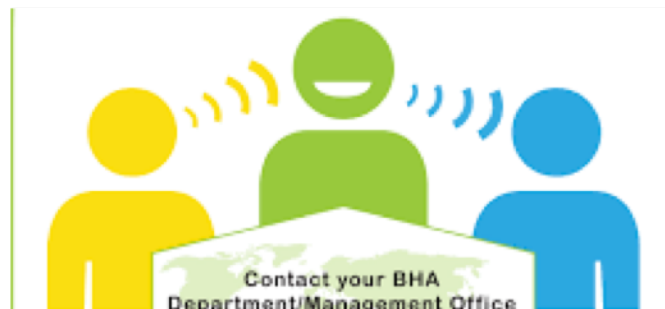
Benvenuto



Learning Objectives

By the end of this workshop, you will be able to:

- Understand the requirements of Title VI
- Understand how investigations can be improved by using language access tools
- Enhance victim safety and participation in the criminal justice system by improving language access



Introductions



Leslye E. Orloff

Director

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Wendy Lau

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on Gender-Based
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Michael LaRiviere

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The National Immigrant Women's Advocacy Project Brochure

Vision

NIWAP envisions a world with equitable access to justice that ensures a safe, supportive environment for immigrant survivors of abuse and their children to heal and thrive.



Our Focus

- Domestic Violence
- Child Abuse, Abandonment and Neglect
- Sexual Assault
- Human Trafficking
- Immigration Law and Victim Relief
- Family Law
- Health Care, Housing, and Public Benefits
- Trauma-Informed Victim Services
- Language Access
- The intersections of these laws in the lives of immigrant victims, women and children



Between 2012 and 2016, NIWAP has...

- Provided answers to 4,963 Technical Assistance requests from 3,123 attorneys, advocates, police officers, judges, prosecutors and other callers, over 9,000 of whom subscribe to NIWAP's network.
- Delivered 221 trainings to 16,965 professionals across the United States.
- Developed 255 publications and resource tools, ranging from bench cards for judges to toolkits for law enforcement officials, resulting in over 390,000 downloads of our materials and resources from NIWAP's web library.

PO Box 5411
Washington, DC 20016
Phone: 202.274.4457

Website: niwap.org

Web Library:

<http://niwaplibrary.wcl.american.edu/>

Email: niwap@wcl.american.edu

NIWAP

The National
Immigrant Women's
Advocacy Project



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WASHINGTON, DC

The National
RESOURCE CENTER
for **REACHING VICTIMS**

Helping those who help others

[National Immigrant Women's Advocacy Project](http://niwap.org)

Let's see who is on the webinar with us: Poll 1

Please check the box that best describes you:

- Law enforcement
- Domestic violence/sexual assault victim advocate
- Prosecutor
- Attorney
- Other

US – Countries/Regions of Origin & Limited English Proficiency (LEP)(2017)*

- ▶ Asia – 28.1%
 - ▶ China/Taiwan (6.2%)
 - ▶ India (5.6%)
 - ▶ Philippines (4.4%)
 - ▶ Vietnam (3.1%)
 - ▶ Korea (2.4%)
- ▶ Latin America – 51.0%
 - ▶ Mexico (26.5%)
 - ▶ Other Central America (4.7%)
 - ▶ South America (6.8%)
 - ▶ Caribbean (9.8%)
 - ▶ El Salvador (3.2%)

**Source: [Migration Policy Institute Data Hub \(January 2017\)](#)*

US – Countries/Regions of Origin & Limited English Proficiency (LEP)(2017)* (2)

- ▶ Europe – 10.9%
 - ▶ Eastern Europe (4.9%)
- ▶ Oceania – 0.6%
- ▶ Africa – 4.9%
- ▶ Middle East – 2.7%
- ▶ Non-U.S. North America – 1.8%
- ▶ Language spoken
 - ▶ 21.6% of people in the U.S. speak language other than English at home
 - ▶ 49.1% of foreign born persons are LEP - speak English less than “very well”

Language Access

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

Source of Language Access Laws

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

Source of Language Access Laws (2)

- LEP Executive Order 13166 (2001)
 - Requires all agencies receiving any federal financial assistance to
 - Ensure meaningful language access
 - Develop and implement language access plans
 - “Where the denial or delay of access may have life or death or other serious implications, the importance of the full and effective delivery of LEP services is at its zenith.”

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”

Recipients of Federal Financial Assistance and Title IX Compliance



What is a recipient of federal financial assistance?

- Recipients of federal funds range from state and local agencies, to nonprofits and other organizations
 - Example of recipients: Law enforcement, courts, victim service providers, government programs
- Includes- grants, training, use of equipment, donations of surplus property, and other assistance
- Title VI covers a recipient's entire program or activity - even if only one part of the recipient receives the federal assistance
- Sub-recipients are also covered

Interpretation: Use of 1st Person

The conversion of spoken language into another language verbally:



No 3rd Person

Officer (to interpreter): Can you ask the victim what happened?

Interpreter (into the other language to victim): Can you ask the victim what happened?

Victim: ????????

Use of 3rd person

Interpreter to the officer: Officer, the interpreter is not familiar with the acronym R.I.C.O. Could you please explain what it stands for so that the interpreter can interpret accurately.

Interpreter to the officer: Officer, the interpreter was unable to hear the response from Mr. Speak-too-low. Could you please ask him to speak up so that I can interpret accurately.

Translation

The conversion of written text from one language into the written text of another language



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**
 - **DOJ Approach to language access outline in: Steps for Obtaining Interpreters**

Poll 2:

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?



DOJ Requirements 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

Poll 3: What evidence if interpreted incorrectly could harm a prosecution?

- Police reports
- Victim statements
- Excited utterances
- Witness interview
- All of the above

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

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”
 - Crime witness interviews
 - Criminal interrogations
- Vital written materials translated into primary language
 - Miranda warnings

Poll 4: Choose someone who speaks English you would select to speak to under exigent circumstances?

- Child
- Perpetrator
- Neighbor
- Relative
- All of the above

What is a Qualified Interpreter?

- Category for languages that certification does not exist but the interpreter has:
 - completed interpreter training and
 - has experience interpreting.
- Certified by the United Nations for Conference Interpreters (28 U.S.C. §1827).



This is different than a Certified Interpreter

Salem Police Department

Addressing Language Access

- Training for bilingual officers, advocates, civilian employees and others on interpretation (Across Jurisdictions)
- Qualified interpreter assessments
- Access to over the phone interpretation for officers, detectives and other department staff
- Expected acquirement of audio/video all inclusive interpreter stations

Salem Police Department Addressing Language Access (2)

- Development of language access policies, procedures and protocols
- Action and procedure memo's that support meaningful response
- Collaboration with service providers, others
- Community outreach



Using Qualified Interpreters

Benefits

- Safety
- ID offender
- Locate weapons
- Admissible statements (excited utterances)

Harms

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

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.



Poll 5:

- Once the emergency is over what are the next steps in the investigation where a qualified interpreter is required ?

The Investigation Begins

- Write a police report
- Call detective
- Call fire/rescue
- Take initial statements
- Call crime scene
- Take a photograph
- Formal interviews at the station
- Develop probable cause
- Prepare case for prosecution

DOJ Language Access: Courts Responsibilities



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 minors and crime victims
 - In ALL court room proceedings whether civil, criminal, administrative or other.
 - LEP individuals should not incur any fees for these services.

DOJ LEP Directive to State Courts on Federal Civil Rights Requirements (8/20/2010) – Interpreters (2)

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

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

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

- **Translation Requirements for Documents**

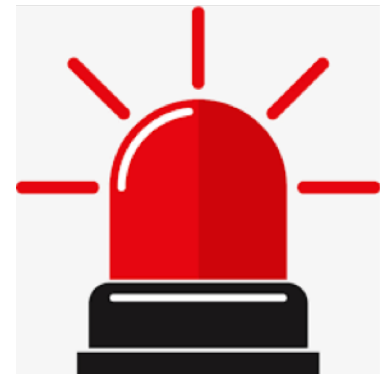
- Translated petitions, court orders, and materials explaining rights and obligations.
- Post signs and public service announcements in foreign languages advertising free qualified interpreters.
- Language cards to accurately identify individual language needs
- All languages spoken by the lesser of 5% of population or 1000 individuals
- When fewer than 50 persons = 5% written notice in that language of right to receive oral interpretation

Tips for Working with Interpreters

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

Red Flags

- Can you understand the interpreter?
- Does the LEP person look confused?
- Does the interpreter appear confused?
- Is the interpreter engaging in side conversations?
- Is the interpreter summarizing?
- Is there a change in the individual's demeanor?
- Are they using English words?



Limited English Proficiency: A Federal Interagency Website

The screenshot displays the LEP.gov website interface. At the top, the header reads "Limited English Proficiency (LEP) LEP.gov A Federal Interagency Website" with a search bar on the right. A left-hand navigation menu lists various categories such as "LEP Resources and Information", "LEP Compliance", and "LEP.gov". The main content area is titled "Department of Justice LEP Guidance for Recipients and Agencies" and contains a list of links including "LEP Guidance for DOJ Recipients", "Language Access Guidance Materials", "State Courts", "Corrections", "Police and Sheriff's Departments", "Guidance to State and Local Government", and "Guidance for Federal Agencies". Below this, there are sections for "LEP Guidance for DOJ Recipients" and "Language Access Guidance Materials", each with a "[TOP]" link.

[LEP.gov website](http://LEP.gov)

Resources on Language Access

- Contact Technical Assistance provider **Asian and Pacific Institute on Gender-Based Violence**: wlau@api-gbv.org
- Tools, resources, tip sheets and links to webinars available through
 - [Asian and Pacific Institute on Gender-Based Violence](#)
 - NIWAP
- Language Access Plan development and updating:
 - [Asian Pacific Institute on Gender-Based Violence](#)

Resources for Law Enforcement on Language Access

- [LEP.gov LE Language Access Planning tool](#)
- [Battered Women's Justice Project Language Access Compliance for Law Enforcement](#)
- [San Francisco Police Department Language Access Training video](#)

NIWAP: Resources for Law Enforcement

- NIWAP provides direct TA from a peer expert
- Onsite training on immigrant crime victim issues and language access
- U Visa Law Enforcement and Prosecutor Toolkit
- Language access tools for law enforcement
- [Sign up for the law enforcement prosecution roundtable](#)

Training for Law Enforcement in Your Community

- Onsite training on immigrant crime victim issues and language access
- [Sign up to have us bring a free training to your jurisdiction!](#)

Virtual Roundtables for Law Enforcement and Prosecutors

- Discussion on a various topic and strategies that will improve ways departments can build rapport, establish trust, and ensure safety
- Interactive call with opportunity to ask questions about case challenges and strategies.



Thank You!



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