

Translating Justice

A Unified Language Access Blueprint to Accessing Justice

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Overview

Crime victims who are Deaf and hard of hearing (D/d/HoH) or have limited English proficiency (LEP) need meaningful, effective, and equal access to crime victim services and criminal justice supports. Yet, all too often, these victims are denied access to critical services and supports because victim service providers and justice-related systems do not understand how to provide comprehensive language access, including their legal and ethical obligations to do so for all crime victims.

To address these critical barriers to justice, the Vera Institute of Justice, in partnership with the Asian Pacific Institute on Gender-Based Violence, Casa de Esperanza's National Latin@ Network, IGNITE, the National Center for Victims of Crime, Mujeres Unidas y Activas through funding from the Office for Victims of Crime (OVC), U.S. Department of Justice embarked on its *Translating Justice* initiative. This initiative provides nationwide training and technical assistance (TTA) to crime victim service providers and justice-related professionals to ensure language access is realized for victims with LEP and D/d/HoH victims.

What is Language Access

Victim service providers and justice-related systems have a responsibility to serve victims in the aftermath of a crime and throughout their involvement with victim-related services and/or the criminal or civil justice systems. To positively effect victims' health, wellness, and safety, it is imperative that practitioners provide useful, timely, and relevant information and support. Even among those who speak, read, and write English, communication barriers between victims and justice-related systems arise. These barriers are exacerbated for victims for whom English is not their primary language,

victims who have limited English proficiency, and victims who are Deaf or hard of hearing. For these victims, language, communication, and cultural barriers impede equal access to justice and victim-related services and supports.

Language access encompasses a comprehensive framework of knowledge and practices that facilitates parity, removes barriers, and ensures meaningful access and effective communication within all interactions between victim service and justice-related systems and the individuals who encounter those systems. Language access applies to spoken and signed communication, facilitated through interpretation, as well as to written communication (i.e., documents and signage), which is facilitated through translation. Both interpretation and translation are critical communication methods that either can enhance or impede a crime victim's access to victim services and justice-related supports.

Why Language Access Matters

Census data from 2011 reveals that more than 25 million individuals residing in the U.S. qualify as having limited English proficiency, in that they reported speaking English less than “very well.” Another 2.8 million individuals with LEP reside in Puerto Rico.¹ The National Center for Health Statistics reports that approximately 37 million adults in the United States have trouble hearing, and approximately four percent of these adults are Deaf. National data suggests that three out of every 1,000 children are born Deaf or hard of hearing.² It is therefore not surprising that the increasing diversity of victims seeking services has led the broader victim service community to articulate a greater need for serving multilingual and multicultural communities. Language access is critical to meeting this need.

¹ U.S. Census Bureau. 2011. 2011. American Community Survey (ACS), Table B016001, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over.

² Schoenborn, C. & Heyman, K. (2008). “Health disparities among adults with hearing loss: United States, 2000 – 2006.” Health E-Stats: Centers for Disease Control, National Center for Health Statistics.

Language barriers are associated with a number of adverse outcomes, including victimization. Immigrants, particularly those who are LEP and/or fearful of deportation, are at increased risk of being targeted by criminals (for various crimes, ranging from domestic violence, assault, fraud, rape, robbery, trafficking, and bias/hate crimes) because perpetrators know they cannot or will not seek out police protection.³ Deaf and hard of hearing individuals living in the U.S. have higher rates of domestic and sexual victimization—intimate partner violence, psychological aggression and abuse, forced sexual experiences, and sexual assault—than their hearing counterparts.⁴

Unique Language Access Issues for Individuals with Limited English Proficiency

Despite high rates of victimization among LEP populations, research suggests that they are less likely to report their victimization. A national survey of police chiefs, prosecutors, and court administrators from the 50 largest U.S. cities found that 67 percent of survey respondents believed that recent immigrants report crimes less frequently than other victims.⁵ Language barriers, combined with a limited understanding of the U.S. criminal justice system, prevent many individuals from approaching police for assistance or to report victimization.⁶ A 2010 survey of Latina immigrants who had experienced domestic violence found that more than 20 percent of respondents believed that language barriers were their main challenge to seeking help or receiving assistance, including assistance from police.⁷ Underreporting of victimization to law enforcement means that victims are not able to fully access the justice options and services they

³ For overview of research, see: Kercher, G. & Kuo, C. (2008). "Victimization of immigrants." Crime Victims' Institute. Criminal Justice Center, Sam Houston State University.

⁴ For overview of this research, see: Tate, C. (2012). "Trauma in the deaf population: Definition, experience, and services." National Association of State and Mental Health Program Directors (NASMHPD). Alexandria, VA.

⁵ Davis, R.C., and E. Erez. (1998). "Immigrant Populations as Victims: Toward a Multicultural Criminal Justice System." Research in Brief. U.S. Department of Justice, National Institute of Justice. Washington, DC.

⁶ Lysakowski, M., Pearsall, A., Pope, J. (2009). "Policing in New Immigrant Communities." U.S. Department of Justice, Office of Community Oriented Policing Services. Washington, D.C.

⁷ Vidales, G. (2010). "Arrested Justice: The Multifaceted Plight of Immigrant Latinas who Faced Domestic Violence." In *Journal of Family Violence*, Volume 25, Issue 6. Page 537.

need.⁸ Underreporting also eliminates the possibility that offenders will be held accountable.

LEP individuals who do come forward to report crime may be turned away when trying to report a crime in a language other than English. In other cases, an LEP victim's privacy is commonly compromised because police officers, unable to understand that victim's native language, often include neighbors, intimate partners, or family members to interpret the victim's case.⁹ In addition, for some LEP victims, law enforcement officials may speak too fast, or use unfamiliar terminology, increasing the possibility of losing meaning in interpretation or translation, and making an already tense and traumatic situation even more stressful for the victim.¹⁰

Unique Language Access Issues for Deaf and Hard of Hearing Individuals

There are unique language access challenges for Deaf victims because qualified American Sign Language (ASL) interpreters are rarely used to facilitate communication between Deaf victims and law enforcement. More commonly, Deaf victims are forced to use ad hoc and often ineffective communication measures that present their own challenges: writing notes back and forth requires a level of fluency in and comfort with written English that many Deaf victims do not possess; speech or lip reading is difficult for most Deaf victims, imprecise, and can lead to confusion; and family members acting as interpreters present problems, especially since they often lack the skills, fluency, and objectivity to interpret the information being conveyed accurately. These ad hoc measures lead to miscommunication, missed information, and frustration in any

⁸ According to the Bureau of Justice Statistics, 14% of violent crime victims who reported the crime to the police received direct assistance from a victim service agency compared to only 4% when a crime was not reported. For more information, see: Sherman, L. "Trust and Confidence in Criminal Justice." (2002). NIJ Journal 248.

⁹ Peguero, A. (2008). "The Victimization and Vulnerabilities of Immigrant Children: The Importance of English Proficiency." In *Agenda for Social Justice: Solutions 2008*. Society for the Study of Social Problems. Knoxville, TN.

¹⁰ Child, B., Oschwald, M., Curry, M., Hughes, R., Powers, L. (2011). "Understanding the Experience of Crime Victims with Disabilities and Deaf Victims." In *Journal of Policy Practice* 10/2011.

circumstance, but they prove quite problematic in the context of domestic and sexual violence.¹¹

The Need for a Unified Language Access Framework

For both individuals with LEP and D/d/HoH individuals, it is difficult to exchange information in any language other than a person's primary language in the best circumstances, and it becomes even more difficult if that person has experienced a crime, is in crisis, or if the information to be conveyed is complex. In the rare instances when certified interpreters are used, they often do not have the proper qualifications or preparation to work in the context of domestic and sexual violence, which presents unique linguistic needs, practice considerations, and safety concerns for interpreters.¹²

The current snapshot of language access strategies employed by victim service organizations and justice-related systems reveals bifurcated and disjointed efforts to address the needs of individuals with LEP from those addressing D/d/HoH individuals.

While language access responses are fragmented for both populations and are inconsistently implemented throughout the varied interactions within the criminal and civil justice process, no holistic approach is used to ensure language access for all persons. For example, victim service providers and allied professionals might have policies in place for providing language access for LEP or D/HOH individuals, but generally do not facilitate language access in practice across these populations nor in a unified manner. This lack of an integrated and unified language access infrastructure and approach not only further impedes access to justice for

¹¹ Smith, N. and Hope, C. (2015). "Culture, Language, and Access: Key Considerations for Serving Deaf Survivors of Domestic and Sexual Violence." Vera Institute of Justice. New York, NY.

¹² Ibid.

millions of people; it also fragments each system's language access response.

A unified strategy that encompasses ensuring language access for both victims with LEP and D/d/HoH victims streamlines the planning, resources and implementation processes that help ensure access to justice for all victims. Without a unified language access framework, bifurcated efforts prevent justice-related entities from marshaling the resources needed to better ensure language access needs are met, including the ability to pool resources, identify assets and allies, and strategize language access solutions across populations. Therefore, it is critical to recognize the benefits that a unified language access approach brings to serving all victims of crime.

Training Identified as a Specific Need

A vital component to language access, especially in a uniform fashion, is training. Without training of employees, any language access plan, policies, or procedures that are developed will have little effect on ensuring language access for LEP and D/d/HoH individuals. For example, in a national survey conducted by the Vera Institute of Justice, survey respondents (n=827) reported that staff were most knowledgeable regarding policies and procedures about spoken language interpreters (**27%**). In contrast, only **3 percent** of staff were knowledgeable about policies and procedures concerning captionists.

Overall, high levels of training needs were identified by both survey respondents. In a needs assessment survey, the most frequently reported training needs were evaluating language access policies and procedures, legal requirements for providing language access, providing culturally responsive services, assessing interpreter competency, and creating a language access plan. Additional training needs identified by stakeholder interviews included the need for practical trainings on unified planning for language access that addresses the needs of both individuals with LEP and D/d/HoH individuals, including assessing community language needs,

securing qualified and certified interpreters and translators, equipment and technology enhancements, and monitoring language access efforts.

A Unified Curriculum Developed:

To respond to the need for training identified in the national survey, the Translating Justice partners developed this robust training curriculum. This curriculum is designed to be offered in numerous ways: as a full, two-day training; as separate and distinct modules or workshops added to existing curricula, or as separate webinars. For each module, there are detailed faculty instructions to guide future trainers, along with the power points, handouts, a resources guide, and a glossary of terms. The Translating Justice partners identified seven core modules that encompass the curriculum and address the needs identified above. They include:

1. Language Access and Why it Matters

In this module participants in the workshop will learn why language access matters and how it is connected to the larger issue of victim equity, trauma-informed services, cultural humility, and systems change. The session will discuss how language access can become part of organization missions, and how organizations can fully commit to language access.

2. Providing Meaningful And Effective Access: Where to Start

This session will provide an overview of the federal laws that outline the legal obligations of victim service providers and justice-related systems to provide language access to victims with LEP and D/d/HoH victims, albeit to different standards. The workshop will also focus on the ethical rationale for providing meaningful and effective access to services for survivors of crime. Presenters will provide the foundation and intent of the federal anti-discrimination laws as they relate to language access, and present and discuss practical tips regarding the various ways in which they can comply with, and even exceed the intent of, these federal laws.

3. Language Access Planning

Participants will learn the practical tips and skills to developing a language access plan for victims with limited English proficiency or who are Deaf or hard of hearing. They'll discuss the allocation of resources, policies, strategies for implementation, and ongoing staff training necessary for successful language access plans. Practical, step-by-step guidance on how to develop language access plans that gather needed demographic data to determine the size of the LEP and D/d/HoH populations in a given jurisdiction and the number of languages used within those populations as critical first steps to developing a meaningful language access plan will also be discussed.

4. Language Access Needs Assessment and Resources

This session will take participants through the process of examining strategies to determine whether a person needs language access services. Participants will engage in discussion around what is “meaningful” and what is “effective” language access. Importantly, they will also discuss what informal methods tend to be used and why they are not meaningful or effective, and therefore, should be avoided. Finally, participants will learn to identify promising practices in language access provision at different organizational points of contact.

5. Working With Interpreters: Enhancing Communications with Individuals with Limited English Proficiency and Individuals Who are Deaf and Hard of Hearing

Participants will learn to distinguish between interpreter qualifications, certifications, and specializations to ensure quality and appropriate language access delivery. Presenters will discuss interpreter codes of conduct and the roles of interpreters. They will highlight the importance of confidentiality, impartiality, and accuracy. Participants will gain practical strategies for working with interpreters and improving working relationships.

6. Providing a Bridge Between Languages: Translation, Technology, and Other Assistive Language Needs

This session will ground the participants in how to manage the use of additional language access devices, with a heavy focus on the use of technology. The presenters will highlight the numerous options available for language access, when they are appropriate to use and their positive effects, but also when they are inappropriate and the potential drawbacks of their use. Participants will be better able to create a plan for use of assistive devices within their own agencies.

7. Language Access Planning: Monitoring and Quality Assurance

Like any organizational policy, language access planning requires continuous monitoring for quality assurance. This session will explore with participants the process of ongoing self-monitoring and the steps needed to engage in a compliance plan.

Conclusion

Whether one focuses on the language access gaps, needs or promising practices, there is a need for a unified language access framework for service providers. This curriculum and its attending resources will guide agencies and service providers in a concrete structure and plan for making language access a priority. This curriculum addresses the absence of a unified approach to planning, provision, training, monitoring, and outreach that integrates and simultaneously addresses the language access needs and issues for individuals with limited English proficiency and who are Deaf and hard of hearing among victim services providers, courts, law enforcement and allied stakeholders. It does this by offering training materials that directly address each of the gaps. In addition, this training curriculum, future training and technical assistance provision, and other activities will serve to enhance the capacities and responses of victim

service and justice-related systems in the provision of language access support to crime victims with limited English proficiency and Deaf and hard of hearing crime victims.