Translating Justice

Achieving Language Access for Crime Victims


A joint project of:
- Vera Institute of Justice
- Casa de Esperanza: National Latin@ Network
- Mujeres Unidas y Activas
- Asian Pacific Institute on Gender-Based Violence
- IGNITE
- National Center for Victims of Crime
- Alice Sykora, consultant
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Translating Justice Facilitator Guide (In-Person) 2
Overview

**Estimated time to deliver:** 1.5 hours

**Purpose of the module:** This opening module provides a foundation for language access. Faculty will ground the participants in the legal backdrop of providing language access, but also in the results of lack of language access and the barriers that will be faced by victims of crime who are limited English proficient and Deaf and hard of hearing. The module is very discussion-based, while participants react to many real-life scenarios.

**Handouts:** There are 3 handouts for this module:
- Deaf Man Is Fatally Shot by Oklahoma City Police, Despite Pleas
- Refugee's rare dialect exposes legal system's shortcomings
- Working with Deaf Survivors of Domestic Violence

**Videos:** There are 3 videos for this module:
- Slide 4: [Language Access Public Service Announcement](https://www.youtube.com/watch?v=q5ZJzEeJbe0)
- Slide 24: [Mental Floss](https://www.facebook.com/mentalflossmagazine/videos/10155660172112365/)
- Slide 25: [Cultural Humility Edited](https://www.youtube.com/watch?v=16dSeyLSOKw%20%20)
Instructions (prior to delivering)

- Develop webinar poll questions in advance.
- For slide 20, you will need to do some research and insert your own regional information:
- Make sure to include regional information **BEFORE** every presentation. You can find regional information here: [2014 Language Map App](https://www.lep.gov/maps/lma2014/Final_508/)
- Review all videos.

Materials Needed:

- Computer and PPT slides
- Handouts printed, and PPT slides printed out in advance if desired
- Audiovisual equipment, with sound and availability to play videos
- Presentation easel or whiteboard, markers

**Evaluations** passed out at the end of each training.
Faculty Slide-by-Slide Instructions

Slide 1
Translating Justice Title Slide

Slides 2-3
(3 minutes)

Slide 2
What is Language Access? Why Does it Matter?

Faculty Notes
Provide overview of the training
Welcome and introduction of faculty

Slide 3
Learning Objectives

Faculty Notes
Read and go over the learning objectives:

Learning Objectives. As a result of this module, you will be better able to:
1. 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.
2. Discuss the importance of language access for carrying out and fulfilling your organizational missions.\(^1\)

3. Demonstrate initiative in providing meaningful language access services by writing down two organizational commitments regarding language access.\(^2\)

**Slides 4-6**
(20 minutes)

**Slide 4**
Experiential Activities

**Experiential Activity\(^3\)**
Purpose: this activity puts the participants in the role of someone needing language access and is designed to show the frustration and fear that a victim of crime, in a similarly chaotic and emotionally charged event, might feel if left to endure the event without language access.

1. **Introduction:**
   - Explain that you will be playing a video that shows a language barrier.
   - Faculty instructions: Play the video with no subtitles. After one minute, turn them on.
   - Trigger warning: video depicts a medical emergency involving a baby.

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\(^3\) Retrieved from Facing History and Ourselves website, [https://www.facinghistory.org/resource-library/teaching-strategies/fishbowl](https://www.facinghistory.org/resource-library/teaching-strategies/fishbowl)
2. After Watching:

a) Fishbowl activity set-up
Set up the chairs in a circle with enough room around the circle for the remaining participants to observe what is happening in the “fishbowl.” Reserve some chairs outside of the circle in case some participants outside of the “fishbowl” need to sit. Typically, six to 12 chairs allow for a range of perspectives while still giving each participant an opportunity to speak. The observing participants often stand (or sit) around the fishbowl. If the group size is big (over 24 participants), set up two simultaneous fishbowl activities, each one facilitated by a different faculty.

b) Fishbowl discussion
Explain that the participants in the fishbowl will discuss a few questions and the individuals outside of the circle will listen. After 10 minutes, we will switch roles; those who were in the fishbowl will observe and vice versa.

Slide 5:
Video #1 Reactions – First Fish Bowl Group (10 – 12 volunteers)

1. Have you ever been in a foreign country where you did not speak the language?
2. Have you ever had to navigate a social situation in a foreign language and you felt lost in translation?
3. What did you do? How did you feel?
Slide 6:
After watching: Discussion – Second Fish Bowl Group (10-12 new volunteers)

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

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

3. 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?

a. Debrief:
   After the discussion, ask participants to reflect on how they think the discussion went, what their take-aways are. Ask: What did the video make you think about differently than you have in the past re: the needs of victims with LEP or Deaf victims?

Faculty Notes

- This situation could certainly happen to any of us whether we have traveled to another country or arrived in the United States more recently. It happens to our clients all the time, in different contexts. For survivors of crime who are Deaf or have Limited English Proficiency, timely and effective language access can be the difference between life and death, between safety and danger, and is key for having a fair shot at attaining justice and healing.
• Language access is both a legal and an ethical mandate to ensure that all victims receive equal access to justice. Regardless of the language we speak, where we come from or what our circumstances are, everyone deserves healing from trauma and a life free of violence and victimization. (see Module 2 for more information on the legislation pertaining language access for D/HOH individuals and people with LEP).

• The cost of not providing language access is too high for the victim, for the practitioner and for the organization. In turn, meaningful and effective language access enhances outcomes as victims are more willing to seek services and are more likely to access and achieve justice.

Additional Faculty Notes (use if necessary)
Facts-based talking points around second-language acquisition to respond to possible comments denoting language privilege (e.g.: "shouldn't the woman in the video learn the language of the place?"):  
• There are multiple barriers to learning English that many individuals experience, including having multiple jobs, lack of time, lack of childcare, etc. Perpetrators of intra-family violence often do not let their victims take ESL classes as part of a pattern of power and control.

• Learners who have undergone traumatic experiences may experience symptoms such as anxiety, poor concentration, and memory problems, which have direct connections to learning difficulties (Isserlis, 2000, Kerka, 2002, McDonald, 2000, in Gordon, 2011). There is always anxiety involved in speaking or writing in a second language (MacIntyre & Gardner, 1994). In addition to second language anxiety, victims of crime are experiencing much higher levels of trauma and stress. Experiencing language barriers while trying to access services adds to this stress and anxiety, and revictimizes the individual.
• Language development is context-specific (Scribner & Cole, 1981). A person who may be able to navigate day-to-day scenarios in English may still be LEP and need language access in more complex contexts such as those involving the criminal justice system, etc.

• Written English is a second language for Deaf individuals. ASL is a distinct language that does not have a direct English correspondence. Exchanging notes or lip-reading are ineffective communication methods and should not be utilized.

**Presenter note:** We will continue our group work activities. Divide into two groups. Please assign a news article to each group.

**HANDOUT**, to discuss in next slide.

Purpose: Once again, faculty will ground the participants in Why Language Access Matters by delving into some real-life events that occurred and had tragic consequences. Participants will begin to “feel” the importance of language access.

Sawng Hing’s Story:
Refugee's rare dialect exposes legal system's shortcomings (excerpts)
By Stacey Barchenger, sbarchenger@tennessean.com
Published 9:04 p.m. CT Jan. 3, 2016 | Updated 5:57 p.m. CT Jan. 4, 2016
Retrieved from:

A Burmese refugee who spent two years tangled in the criminal justice system after facing accusations of child abuse has had her case reopened because she speaks such a rare language. Sawng Hing was accused of hitting her 7-year-old daughter multiple times with a hanger in 2012. She pleaded guilty to reduced charges and was sentenced to probation, according to court records. Then one day more than a year later, she
disappeared, swept off to a federal prison facing deportation. Months later, attorneys discovered that Hing's pastor, who was used in court to interpret Hing's rare language of Matu-Chin, didn't speak the language and did not understand legal terms in English, according to court records. So his translations were wrong. Immigrant advocates say the case shows why Nashville, with its growing immigrant and refugee populations, needs to keep educating those groups, understanding cultural differences and making sure language barriers are understood by officials at all levels of government. More than 120 languages are spoken by students in Metro Schools alone. And according to U.S. Census Bureau estimates, more than 16 percent of Nashville residents speak a language other than English at home. "Nashville has one of the fastest-growing immigrant populations in the country," said Stephanie Teatro, co-executive director of the Tennessee Immigrant and Refugee Rights Coalition. "What that means is for local institutions it can be a challenge to keep up."

Fleeing Myanmar, into trouble
Hing's family, including her two children, fled Myanmar, formerly known as Burma, in 2010 after they were persecuted — assaulted and tortured — because they are Christians, court records say. Hing speaks Matu-Chin, a language spoken by only about 40,000 people, according to court records. Hing has no formal education, knows only some Burmese and speaks almost no English. One day in March 2012, Hing's then-7-year-old daughter showed up at her Nashville elementary school with "17 whelps" on her body, according to court records. Police accused Hing of hitting the girl with a hanger the day before because the girl was not at the bus stop after school. Hing was charged with four felonies and in June 2013 pleaded guilty to one count of attempted aggravated child neglect resulting in a sentence of seven years probation. Attorneys who later tried to overturn the conviction argued in court filings that former Assistant Public Defender Gary Tamkin did not find a Matu-Chin interpreter and instead relied on Hing's pastor, who came to court with Hing. Tamkin wrongly told Hing that
her status as a refugee might be a defense to any deportation attempts because of the criminal case, according to court records. But federal law says otherwise. The charge that Hing pleaded guilty to is among those that requires automatic deportation proceedings and detention in a U.S. Department of Homeland Security Immigration and Customs Enforcement facility. It also removes eligibility for the few defenses to deportation. More than a year after taking the plea deal, Hing went to see her probation officer. Until then she had complied with all the terms of her probation, according to court records. There she was arrested by federal immigration agents. “As far as everybody in the community knew, she disappeared,” said Mary-Kathryn Harcombe, an assistant public defender who helped reopen Hing’s case.
Confusion in court

Harcombe dug into Hing's case and discovered that the interpreter work of Timothy Peng, Hing's pastor at Nashville Chin Baptist Church, during the plea hearing was not adequate. Peng is out of the country and could not be reached for comment. Tamkin did not return voicemail or email messages.

The Tennessee Administrative Office of the Courts oversees interpreter services in the state, setting up a system of testing, training and certification for some languages. Those are the preferred interpreters. Attorneys or judges seeking interpreters do not have to go through the program, but it serves as a guideline and assistance program, state officials said. The Tennessee Supreme Court also sets rules for interpreters to follow. But in cases such as Hing's, when the spoken language is so rare, there is a challenge.

Cristina Frasier, the interpreter coordinator in Davidson County trial courts, said there is no certification in Burmese, let alone less-common languages such as Matu-Chin. Frasier was not in her current position when Hing's case was prosecuted. On the day Hing took the plea deal, Peng told the judge he understood what was happening and said that he and Hing understood there could be immigration consequences, according to court records. Peng said he was a Burmese interpreter with the Tennessee Foreign Language Institute. Harcombe said he misunderstood the question and is not an interpreter. It wasn't until more than two years later that it was discovered that Peng's interpretations were incorrect. In the course of reopening the case, Nashville Criminal Court Judge Cheryl Blackburn ordered an interpreter to translate a transcription of Hing's plea hearing. The interpreter found multiple errors, which are documented in a transcript of an August court hearing. Among those:

- Blackburn said, "I'm going to find you guilty in Count 3," which Peng interpreted as "I will say that you have said you are wrong, but I will let you go."
- Blackburn told Hing that by taking the plea, she was giving up her rights to a trial and to call witnesses. Peng interpreted that as: "This from the
state, you, what is it, for you to testify you must bring witnesses, must call witnesses."

- "And are you pleading guilty to attempted aggravated child neglect?"
  Blackburn asked. Peng's interpretation: "This you are saying of the charge/ request, it is not true that I reject the child, are you wanting to submit that change, is that right? Are you submitting that I hit the child, yes, I am wrong; is that right?"

The statute of limitations to reopen Hing's case had passed by the time the errors were discovered, and court records say Hing was imminently facing deportation. Harcombe went to the prosecutor’s office and got Assistant District Attorney General Robert Jones to agree the case should be reopened. After several hearings, Blackburn granted the motion to reopen the case.

Slides 7-8
(8 minutes)

Read the handout or opt to have the faculty member read excerpts of their choices.

Slide 7:
Small group discussion

- 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?

**Slide 8:**
Oklahoma City and Magdiel Sanchez

*Handout*

Please have individuals in the group read the news article (either out loud or silently).

After reading, facilitate a discussion based on the following question, within the same small group.

• 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?

After reading, groups share with each other what they learned.

*Deaf Man Is Fatally Shot by Oklahoma City Police, Despite Pleas*
The New York Times
By MATTHEW HAAG SEPT. 20, 2017
An Oklahoma City police officer fatally shot a man on Tuesday night despite pleas from neighbors that the man was deaf and could not hear the commands to drop a metal pipe he was holding, the authorities said.

The man, Madgiel Sanchez, was shot around 8:15 p.m. outside his home soon after the police responded there to investigate a hit-and-run accident. The first officer to arrive called for backup, pulled out his Taser and ordered Mr. Sanchez, 35, who was on his front porch, to drop the two-foot-long pipe he was clutching, the police said.

The officer’s commands did not register with Mr. Sanchez. He ambled off the porch toward the officer, waving the pipe in his right hand, according to the police and a witness.

Julio Rayos, a neighbor who lives a few homes away and knew the man was deaf, said he saw the confrontation unfold and sensed trouble.

He said that he ran toward the officer with his wife and his 12-year-old daughter, all three of them screaming that the man could not understand the officer. “Don’t kill him, he’s deaf,” his daughter yelled. “Don’t do it!”

About six other neighbors joined in, frantically trying to get the officer’s attention. But less than a minute after the episode began, a second officer arrived and immediately pulled out his handgun, Mr. Rayos said. While people continued to scream, the first officer fired his Taser at Mr. Sanchez, while the second fired his handgun, the police said.

Capt. Bo Mathews, a spokesman for the Oklahoma City Police Department, said Wednesday that the second officer, Sgt. Christopher Barnes, fired multiple shots and that Mr. Sanchez, who was hit more than once, was pronounced dead in front of his house.
Mr. Rayos said he heard more than six shots in rapid succession. “They seemed like they just came to shoot him,” he said. “It happened so quickly.” In the neighborhood, Shields-Davis, just south of downtown Oklahoma City, Mr. Sanchez was known for wandering up and down the streets during the day, even in heavy rain, and running laps in the parking lot of an American Legion post next to his home. He never left home without the pipe, wielding it shoo away stray dogs, Mr. Rayos said.

Mr. Sanchez also used the pipe to communicate with people, moving it around to try to convey what he meant, Mr. Rayos said. It was the same motion Mr. Sanchez made before the police shot him, Mr. Rayos said.

Captain Mathews said that the shooting was under investigation and that Sergeant Barnes had been placed on paid administrative leave. The first officer who arrived, Lt. Matthew Lindsey, will remain on active duty, he said. Captain Mathews said the police did not know yet why one officer pulled out his Taser while the other had his handgun.

“You can get tunnel vision or just get locked in on the person with the weapon,” he said, speaking generally about what officers can encounter during chaotic scenes.

“I don’t know what the officers were thinking. They very well could not have heard everyone yelling around them.”

The police responded to Mr. Sanchez’s home, in the 200 block of Southeast 57th Street, after receiving 911 calls about a hit-and-run accident at a nearby intersection. A pickup truck involved in the crash had fled to the home, the police were told.

Captain Mathews said the truck had been driven by Mr. Sanchez’s father and that the son was not involved in the accident. Mr. Rayos said the father
was still in his pickup, parked in the driveway of his home, during the confrontation with his son.

Jack Begg contributed research.

Faculty Notes

- Reiterate previous talking point explaining that the cost of not providing language access is too high; it could even cost someone’s life. There is no budgetary excuse to not provide full, meaningful and effective language access. Language access is key to an equitable approach to serving victims of crime, so that every person can have full access to justice. The next slide will go over the multiple negative consequences of lack of language access in detail.
- Explain that subsequent modules will go deeper into how to plan, budget, assess individual language needs, work with interpreters, and more.
- Language access in courts reference documents:
  - DOJ Letter to State Court Administrators: https://www.lep.gov/finalCourtsLtr_081610.pdf

Slide 9
(3 minutes)

Slide 9:
Consequences of Lack of Language Access
See what other ideas the participants have besides what’s listed here.

- Showing slide #8 and verbally add any other consequences that may have emerged in the previous item.

Optional: Share an anonymous comment from a survivor or from your own experience with language access barriers. Elicit examples from the participants.

**Slides 10-22**
(10 minutes)

**Slide 10:**
What is language access?

1. Lecture:

**Faculty Notes**

Language access consists of ensuring that persons who have limited or no English language proficiency, are Deaf or Hard of Hearing are able to access information, programs and services at a level equal to English proficient hearing individuals.  

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4 Adapted from a definition of language access put forth by the Global Justice Initiative, as cited in the “Advancing Language Access in San Francisco: Language Access Ordinance Annual Compliance Summary Report”. City and County of San Francisco, Office of Civic Engagement and Immigrant Affairs, March 2015.
Slide 11:
Definitions

**Faculty Notes**

**Explain** that Limited English Proficiency (LEP) refers to the limited ability to read, speak, write or understand English of individuals who do not speak English as their primary language.\(^5\)

Slide 12:
Definitions

**Faculty Notes**

Read slide. **Explain** that Deaf people in the US have a distinct culture with a shared language, social interactions and support systems\(^6\). Explain that there are many identities in the Deaf community, and that not all Deaf clients are fluent in ASL. For example, immigrant clients who are Deaf as well as some individuals who were born and raised in the U.S. may not be fluent in ASL. *It is a way of life*, based on sign language and an extensive use of vision and reliance on tactile data (vibrations, air movements, lighting) in communication, information and in everyday life. It is an essence of the self (identity). It is a phenomena among a group of people who share common experiences and values. In that sense, we do not consider ourselves “disabled.”

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\(^5\) Vera Institute of Justice: NCJFCJ PowerPoint Presentation, 4/10/2017

\(^6\) Esposito, E. Working with Deaf Victims and Survivors, PowerPoint Presentation. Advocacy Services for Abused Deaf Victims (ASADV)
Slide 13:
Legal Requirements

Faculty Notes
Language Access is a civil right and a legal mandate
A. Presentation

Faculty Notes
The legal authority for language access rests on Title VI of the Civil Rights Act of 1964, Executive Order 13166 for LEP individuals, and Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act (ADA) for D/HoH individuals.

• Victim service providers and justice-related systems generally recognize that language access is a right; however, there is a lack of awareness about the specific legal authority on which language access is based and the accompanying guidance provided about how to implement this authority in practice.

• Although public agencies that receive federal funding are required to provide language services to LEP individuals, including posting signs indicating the availability of language services and translating important documents into various languages, due to resource constraints, lack of awareness and lack of capacity, these requirements remain unmet in systematic ways. Vera’s Translating Justice project seeks to fill that gap.

Please refer to Module 2 for more specific legal language on language access.
Slide 14: Language of Title VI

Add that the Supreme Court has defined that discrimination that is based on a person’s inability to speak, read, write or understand English constitutes one type of national origin discrimination. See Lau v. Nichols, 414 U.S. 563 (1974).

- Both Title VI and the Safe Streets Act prohibit recipients of federal funding from discriminating based on race, color, or national origin.

Slide 15: What’s Required of Recipients of Federal Funds and Federal Agencies

Note that if they are doing the entire training, this subject will be covered at length in the second segment on Legal and Ethical Requirements for more information on the federal mandates. But for here:

*This was taken from the Casa de Esperanza ppt.

Most domestic violence and sexual assault programs in the U.S. receive some form of federal funding—whether through grants, contracts or subcontracts from different sources, including the following:

- the Family Violence Prevention Services Act (FVPSA);
- the Victims of Crime Act (VOCA);

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7 Language Access PowerPoint Presentation by Olivia Garcia, NCVC
• the Services, Training, Officers and Prosecutors (STOP) grants program, or another program of the Violence Against Women Act (VAWA).

• The Department of Housing and Urban Development (HUD) also provides federal funding to domestic violence programs. Often times this federal money is distributed to the States who then pass it through to domestic violence or sexual assault programs.

Read slide and explain that compliance with language access and it being tied to federal funding pertains to Title VI, not ADA. As we'll see next, compliance with the ADA is not tied at all to federal funding. Quote from Module 3 (Language Access Planning) and say that what is “reasonable” looks different for every organization/agency – what is “reasonable” for a law enforcement agency may be not be for a domestic violence provider, what is “reasonable” for a hospital may not be reasonable for a courthouse. In any case, this legal mandate is the floor and not the ceiling of language access. Language access is first and foremost, an ethical obligation. If our goal is equal access to justice for all crime victims, we need to aim at providing full language access for victims who are D/HoH and have LEP.

**Slide 16:**
What’s Required of Places of Public Accommodation

**Faculty Notes**
• Read slide and note that federal funding of any kind is NOT tied to the ADA and places of public accommodation.

**Slide 17:**
Language Access Standards
Faculty Notes

- **Explain** that the language access standard stated in the ADA is effective communication; in other words, providing equal communication for individuals with disabilities, including D/HOH. Public accommodations and state entities are required to provide ASL interpreters, and other auxiliary aids to ensure effective communication. Deference must be given to the deaf or hard of hearing individual’s choice.

- **Explain** that “meaningful access” is the federally mandated standard for communication with LEP individuals, and 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.
  
  - **Lawsuits do happen** – we don’t want that to be why you provide services, but they do happen. See, e.g. *Not-So-Equal Protection: Security individuals of limited English proficiency with meaningful access to medical services*, 32 Golden Gate U.L. Rev. 239 (2002), available at http://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1835&context=ggulrev, which highlights numerous cases.

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8 Vera Institute of Justice: NCJFCJ PowerPoint Presentation, 4/10/2017, slide 13
9 ADA, as cited in Language Access PowerPoint Presentation by Olivia Garcia, NCVC, slide 9
10 United States Department of Justice (March 2012). Department of Justice Language Access Plan

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Translating Justice Facilitator Guide (In-Person)
Faculty Notes

- Title VI of the 1964 Civil Rights Act - “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

- Executive Order 13166
  The Executive Order requires Federal agencies to: (1) examine the services they provide; (2) to identify any need for services to those with limited English proficiency (LEP); (3) to develop and implement a system to provide those services so individuals with LEP can have meaningful access to them; and (4) to develop an LEP plan.

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

- Americans with Disabilities Act and Section 504 of the Rehabilitation Act
  Public accommodations and state entities are required to provide ASL interpreters, and other auxiliary aids, to ensure effective communication with deaf and hard of hearing individuals. Deference must be given to the deaf or hard of hearing individual’s choice. 28 C.F.R. S28 C.F.R. S35.160 (b)(2) (NAD Law Center, 2002).

Both Title VI and the Safe Streets Act prohibit recipients of federal funding from discriminating based on race, color, or national origin.
• 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).

Faculty Notes: Note that we will be moving on to the next segment, where we will continue to answer our initial question of “what is language access and why it matters” by covering the fact that language access is key to ensuring victim equity through a culturally responsive lens

A) Presentation

Slide 19:
Impact of Language Access

Faculty Notes

• Consider the fact that for Deaf and hard of hearing individuals, it’s a language access issue that will be acquired by many of us as we age.

• Consider the impact in numbers that lack of language access has on victimization

• Additional Information: 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 (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.)
Slide 20:
Region-Specific Information

Facilitator instructions

Make sure to include regional information **BEFORE** every presentation.
You can find regional information here:

**Purpose:** this demographic information means that all victim-providers must be well equipped to reach and serve linguistically and culturally diverse clients. This includes immigrant clients who may be LEP, as well as individuals who are Deaf and Hard of Hearing (these populations may overlap).
It is also helpful to have participants think about *where* they could get information about the languages spoken in their region.

Slide 21:
Definition of Equity/Victim Equity

**Faculty Notes**

Explain that serving diverse populations cannot be done by using a “one-size-fits-all” approach, but through an equitable and culturally responsive approach: providing the support and accommodations needed by an increasingly diverse community to access services in an **effective** and **meaningful** way. Meaningful and effective language access is key to ensuring equity for victims who are LEP and D/HoH. But closing language gaps through interpretation and translation is not sufficient.
Cultural humility and a trauma-informed approach are key to providing language access and equitable services.

Before we define some important terminology, ask:

- In your opinion, what is culture?
- How are culture and language related?

Indicate that culture is not a static list of beliefs, norms, patterns of thought, etc. that characterize a specific group. Culture refers to shared experiences or commonalities based on race, class, language and region, gender, sexual orientation, disability status, immigration status, age, etc. These commonalities are developed and evolve in specific social and political contexts. Everyone (clients/providers) live layered lives and are affected by systems of power and oppression. We can never become experts in other people’s cultures and experiences. Even if we speak a client’s language, we will not be able to fully grasp their experiences based on their unique positioning around racial, class, gender identities, etc.

Slide 22:
Language Access Provision and Cultural Humility

Definitions: Cultural humility is a term that originated in the healthcare field and has since been adapted to interactions between providers and community members in different contexts.

Cultural humility involves a commitment to:
- Self-evaluation and self-critique
- Redressing the power imbalances between provider and community member
- Developing mutually beneficial partnerships with communities on behalf of individuals and populations

In addition, the process of cultural humility means that a person:
- Learns to recognize and reject pre-existing beliefs about a culture,
- Focuses on understanding information provided by individuals with the context at hand, and
- Forgoes the temptation to classify or label persons. (i.e. Latinas are --

Faculty Notes:
Even if we speak a client’s language, we will not be able to fully grasp their experiences based on their unique positioning around racial, class, gender identities, etc. True language access is not just offering an interpreter. In order to allow diverse communities to meaningfully access and participate in our programs and services we, as providers, must engage in the process of cultural humility, which involves a personal and organizational commitment to self-evaluation and critique of internal biases, and to the development of partnerships with the communities we are serving.

Slides 22-26: 25 minutes
Slide 23:
Language and Culture

Purpose: Many people do not realize the level of cultural importance being Deaf has to the Deaf community. While we talk about the fact that sign language is not just visual English, and that there any accents and dialects just like in spoken English, it helps to see how it actually looks. This video illustrates the connection between language and culture, as the shared experiences based race, class, region, age, etc. shape different sign language varieties.

- **Example 1:** Play [Gallaudet video](https://www.facebook.com/mentalflossmagazine/videos/10155660172112365/)

Other examples provide similar cultural context in the LEP community:
Ask participants to read the following examples:

- **Example 2:** An LEP victim’s does not make eye contact and hesitates during an interview with a police officer through an interpreter, and the officer 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 show the impact of trauma on that

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individual, but is misinterpreted by a provider whose cultural norms place value in direct eye-contact.

- **Example 3:** Cultural taboos in discussing sexual assault or no concept of marital rape could influence communication and understanding of language in provider-client interactions.

- Cultural nuances can be misunderstood and create bias within the investigative process and can severely impact the results of a police interview. That police interview then turns into a police report, which can be very difficult, if not impossible, to change.

- Consider also that everyone has implicit biases – they can be positive or negative attitudes or thoughts or assumptions about a person or group that is subconscious or unconscious. If you have more interest in finding out where yours lie, Harvard has a test you can take: https://implicit.harvard.edu/implicit/takeatest.html

- **Explain:** Cultural humility (refer to definition on slide #21) is needed for providing services to those from diverse cultural backgrounds, and ultimately lessens the frequency of cultural misunderstandings and stereotyping, which leads to discrimination, inequity, and poor quality of services\(^{14}\).

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\(^{14}\) Adapted from: Vera Institute for Justice. Translating Justice for Victims with Limited English Proficiency and Deaf or Hard of Hearing Victims: A Literature Review. Pages 15 and 17

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Faculty Notes

a. 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

Purpose: Cultural humility considerations should be a part of language access planning and training. This video explains the various ways in which people think about and conceptualize cultural humility.

Video and Discussion: ▶️ 5:57
https://www.youtube.com/watch?v=16dSeyLSOKw

Faculty points:

1. **Bias:** Every provider should examine and be fully aware of his or her innate biases. This means knowing whether you might treat someone differently because of his or her traits. One way a trainer can help trainees examine bias is by asking them to take the Harvard Implicit Bias test to understand different ways bias can impact judgment. Project Implicit test here

2. **Oppression:** Understanding different ways that individuals can be marginalized and impacted by power inequalities in society. Before a

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15 https://implicit.harvard.edu/implicit/
victim gets to us, we do not know what came before – if we understand all the overlapping layers of oppression, we can better meet the victim where he or she is. Exercise: Trainer can conduct an exercise to help trainees understand how income and gender and other factors can impact someone’s “status” - https://msw.usc.edu/mswusc-blog/diversity-workshop-guide-to-discussing-identity-power-and-privilege/#cross

3. **Historical trauma:** This is better understood through a case study, usually through thinking through experience of Native or Tribal communities or the trauma of slavery of African Americans, and how that impacts generations and can add to current trauma.

4. **Intersectionality:** this is the lens by which we view individuals through multiple layers of identity – for instance, victims will enter your doors not just as someone with Limited English Proficiency – but sometimes as Vietnamese refugee who is a woman and who has hearing problems. We must acknowledge and provide services to the whole person.

**Additional resource:** a great resource to think of intersectionality and how to work between disparate communities is through Deepa Iyer’s “Solidarity is This” podcast here17.

**Slide 25:**
Discussion Questions

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

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17 Iyer, D. Solidarity Is This [Audio podcast]. Retrieved from https://www.solidarityis.org/
Slide 26:
Community partnerships with culturally-specific organizations

Faculty Notes

Partnerships should be part of your foundational language access planning.

Benefits of Deep and Meaningful Partnership with Culturally Specific Organizations

1) Faculty point: Critical Cross-training and Cross-Pollinization for each organization. Culturally specific organization can train mainstream organizations on needs, specifics, and characteristics of community – to improve cultural humility index within mainstream organization.

2) Faculty point: Culturally specific/bilingual/multilingual staff can serve as cultural bridges or navigators for clients

3) Faculty point: Formalize community relationships so that partners are transparent and accountable to each other

4) Faculty point: Referrals and client outcomes are better since it is hard for survivors to be shuffled back and forth between agencies – when there is lack of communication

5) Faculty point: Emergency situations are handled with optimum outcomes: you are not “googling” partners at the last minute and asking an unknown person or organization for emergency language assistance

Partnering with culturally-specific organizations should never be seen as a replacement for developing and implementing an internal language access plan and providing access to qualified interpreters.

A. Formalizing a partnership
1. Determine roles and responsibilities
   a. Write them down in agreement
   b. Leverage strengths of each organization and support gaps in each other’s programming
2. Draft a Memorandum of Agreement or similar partnership contract (Slide 15)
   a. Template – HHS Administration on Children and Families sample:
      https://www.acf.hhs.gov/sites/default/files/fysb/mou_508.pdf
   b. Discuss and walk-through template: have participants talk about their experiences in creating an MOA – some just for grants and which ones were the most meaningful MOAs?

**Slide 27:** Discussion

**Faculty Instructions**

**Purpose:**
Ask participants to form small groups (4-5 groups of 10-12 people – individuals will stay in these groups for the rest of the workshop.). Show slides with the following questions. Ask participants to discuss within their group. At the end of the activity, ask one of the groups to share their responses.

- Who are you currently serving?
- Who in your community is likely to request language access services from your organization?

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What is your organization already doing to provide language access to clients to have LEP or are Deaf or Hard of Hearing?

Faculty Notes
This exercise was a way to remind you that many of you are already taking steps towards Language Access Plans. Although this might seem like an overwhelming task at time, we should remember that providing trauma informed, culturally relevant language access means keeping things in context. It is important to know our surrounding community, who is presently being served by your organization and what communities should your organizations reach out to and start the process of building new relationships. Developing and formalizing deep and meaningful partnerships with culturally-specific organizations can help increase cultural humility levels in mainstream organizations and leverage inside and outside language access resources to better serve LEP and D/HOH communities.

Slide 28
(5 minutes)
Slide 28:
Language Access and Trauma

Faculty Notes
Definitions:
We will use the definitions of trauma and trauma-informed approach in VAWNet, a project of the National Resource Center on Domestic Violence:
**Trauma** is 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. A key aspect of what makes something traumatic is that the individual’s coping capacity and/or ability to integrate their emotional experience is overwhelmed. Trauma often impacts individuals in multiple domains, including physical, social, emotional, and/or spiritual (Giller, 1999; Pearlman & Saakvitne, 1995; van der Kolk & Courtois, 2005, as cited in VAWNet).

A **trauma-informed** program, organization, system, or community is one that incorporates an understanding of the pervasiveness of trauma and its impact into every aspect of its practice or programs. In such settings, understanding about trauma is reflected in the knowledge, attitudes, and skills of individuals as well as in organizational structures such as policies, procedures, language, and supports for staff. This includes attending to culturally specific experiences of trauma and providing culturally relevant and linguistically appropriate services.19

**Faculty Notes**

Explain that, while lack of language access has the often unintended consequence of re-victimizing a survivor and causing more harm, services that are accessible, trauma-informed, survivor-centered, and gender and culturally responsive contribute to the healing process. Effective and meaningful communication in the survivor’s language is a condition for high quality services that are conducive to healing and justice.

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19 For full definitions of these terms, as well as of related terms such as collective, organizational and community trauma, historical trauma, intergenerational trauma and insidious trauma, please visit https://vawnet.org/sc/definitions
Language access provision should also be done from a **trauma-informed approach**. Staff and interpreters should be mindful of the effects that trauma has on communication, processing information, remembering information and establishing trust with the provider. All service provision (including language access provision) should avoid re-traumatizing survivors. Avoid asking survivors to tell their stories multiple times, or through multiple interpreters. Make sure to interview survivors and have VRI equipment, language line and other assistive technologies in an area that ensures privacy, and **never** use children as interpreters.20

**Slide 29-30**  
(7 minutes)

**Slide 29:**  
Case Study

**Purpose:** This handout shows that language access is really a commitment, a process, and not a one-size-fits-all endeavor. The handout shows how the desire to provide language access can result in processes that greatly benefit victims of crime, in this case survivors of domestic violence. It also show the intersectionality of language access, legal issues, and trauma.

**Faculty instructions:** **Hand out** the case study, “**Working with Deaf Survivors of Domestic Violence.**” Ask participants to read through it, giving them a few minutes. Kim, S., Esq.: *Working with Deaf Survivors of Domestic Violence.* This case study can be found as an E-Newsletter of the American Bar Association Commission on Domestic Violence. Volume 10,  

20 Using family members, children or passersby should be avoided at all times, although it may be permitted under exigent circumstances (e.g.: when life or safety may be at risk). Providers should resort to qualified interpreters as soon as the exigent circumstances end.
Ask participants to stay in their small groups. Ask participants to discuss the following questions within their group. Walk around the groups and listen to the discussions. Provide feedback if needed:

1. What barriers to effective communication with their Deaf client did the attorney encounter?
2. What resources did she put in place to overcome them? Did she take her client’s needs and preferences into consideration? How?
3. What lessons did the author learn along the way?
4. Did the provider operate from an equity framework? Why?
5. Did the attorney provide culturally responsive services? Why? How?
6. In this example, how does language access empower the client and the provider? How does it help fulfill the provider’s organizational mission?

Slide 30:
Discussion
Ask the group to consider the following new set of discussion questions. Ask participants to discuss them within their groups

1. *Tell us about a time you worked with a survivor and secured positive outcomes. What made those successful outcomes possible? Were effective and meaningful communication a part of that? How?*

2. *Share the mission of your organization. Why is language access important for fulfilling your mission?*

3. *Write down two organizational commitments towards language access. Example: “I commit to never turning anyone away because they do not speak English.”*  

Ask a volunteer to share an example of a successful outcome. As a closing activity, ask all participants to share their organizational commitments with the whole group.

**Slides 31-33**

(3 minutes)

**Slides 31-32:**
Learning Points

**Faculty Notes**

- Language access means ensuring that people who have limited English proficiency (LEP), are Deaf or Hard of Hearing are able to access information, programs and services at a level equal to English proficient hearing individuals.

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● Limited English Proficiency refers to the limited ability to read, speak, write or understand English of individuals who do not speak English as their primary language.

● Deaf people in the US have a distinct culture with a 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. *It is a way of life*, based on sign language and an extensive use of vision and reliance on tactile data (vibrations, air movements, lighting) in communication, information and in everyday life.

● 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 is about ensuring institutions integrate cultural responsiveness and language assistance at every organizational point of contact with clients. It is about operating under the framework of language justice and cultural humility in every aspect of our organization and our work.

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22 Esposito, E. Working with Deaf Victims and Survivors, PowerPoint Presentation. Advocacy Services for Abused Deaf Victims (ASADV)
Thank participants for attending and ask them to fill out a satisfaction survey [AND/OR] fill out an assessment survey of the information in this module.