



**Reducing Language Barriers to Combating Domestic Violence:
The Requirements of Title VI**

Carolyn Ham

The Battered Women's Justice Project
1801 Nicollet Ave S. Suite 102 Minneapolis, MN 55403
technicalassistance@bwjp.org
800-903-0111, prompt 1

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VIOLENCE: THE REQUIREMENTS OF TITLE VI.**

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Staff Attorney for the Battered Women's Justice Project**

Introduction

In addition to the usual obstacles to leaving a violent relationship, battered immigrant women face a host of additional issues such as fears about being deported, loss of legal immigration status and cultural barriers to leaving their spouses. But perhaps the most daunting barrier can be their inability to speak and read English. Without adequately understanding English, these immigrant women may be unable to communicate with the police, get medical care, learn about resources available to them in the community or negotiate the legal system to obtain an order for protection or apply for citizenship on their own. Therefore, in order to adequately help battered immigrant women, the entire community response to domestic violence, from 911 operators to shelter programs to court systems, must figure out how it will serve non-English speakers.

Under federal law, any program receiving federal funds can not discriminate against a person based on national origin. Federal guidelines require programs to ensure that people with limited English proficiency (LEP) have meaningful and equal access to their benefits and services.

Title VI

Title VI of the Civil Rights Act of 1964 provides that no person shall be subjected to discrimination on the basis of race, color or national origin under any program or

activity that receives federal financial assistance. Title VI applies to all aspects of a program, even if only a small portion of the program is funded by federal funds.

As a recipient of a *Violence Against Women Act* grant, your program is subject to the requirements of Title VI.

The Department of Justice and the Office of Civil Rights within the Department of Health and Human Services have issued guidelines to help recipients of federal funds to comply with Title VI, specifically with regard to providing services to people with limited English. These guidelines spell out the steps a program must take to ensure that LEP persons have meaningful access to the programs, services and information those recipients provide at no additional charge. The guidelines can be found at

<http://www.hhs.gov/ocr/lep/guide.html> (DHHS) and

<http://www.usdoj.gov/crt/cor/lep/DOJLEPGuidApr122002.htm> (DOJ).

Determining Your Program's Obligation to Provide LEP Services

In order to determine what type and how many LEP services you are required to provide under Title VI, you must consider the following four factors:

1. The number or proportion of LEP persons from a particular language group that use or would use your services if not for the lack of language services. These numbers can be obtained from your historical use of LEP persons served, census data, school systems data, other community organizations and state and local government data.

2. The frequency of contact of LEP persons with your program. The more frequent the contact with a particular language group, the more likely that enhanced language services are needed.
3. The nature and importance of the program. The more important the program or activity is, the greater the obligation to provide language services. If a program or activity is compulsory, then certainly language services must be provided.
4. Resources available. Smaller programs with more limited budgets are not expected to provide the same level of language services as recipients with larger budgets. However, before you use this factor to decide that you are unable to provide language services for a given language group, you must make the effort to determine the most cost effective method of providing the service and document that the resources are not available to pay for it.

Implementing a Language Assistance Plan

In order to show that you have complied with Title VI, you should have a policy, preferably written, outlining the language services you will provide. The Department of Justice has identified five factors that ideally will be in your plan:

1. You should have a way to identify the language needs of the people you serve or could serve. For example, you should identify and record the primary language of people using your services.
2. You should explain how the language services will be provided. For example, provide to your staff a list of the types of services available and how to access them.

3. You should provide training to your staff so they know how to access the language services.
4. You should provide notice to LEP persons of the services available. You may wish to post signs in the most common languages encountered that language services are available at no charge.
5. You should monitor the plan to make sure it continues to adequately serve the LEP persons within your community. One particularly good method of monitoring is to get feedback from the LEP communities you serve.

Types of Language Assistance Services

There are several ways that language services can be provided, both orally and in writing. The option you choose should depend on the frequency of the need and the size of the population being served. But whatever you choose, you should make sure that the interpretation services are of good quality. Competent interpreters have the ability to communicate accurately in both languages and also understand their responsibility to keep confidential any information learned.

1. **Oral Interpretation Services**—An organization may choose to hire bilingual staff, contract with interpreter services or use a telephone interpreter service. However, your program should not rely on the services of friends or family to interpret.
2. **Written Translation Services**—Programs should translate vital documents into the languages of the people they regularly serve. If you have documents translated, you should have the final work product reviewed by another person

fluent in the language. If no translation is available, then the written materials should be explained orally in the language of the LEP.

Specific Requirements for Police, Prosecutors, Courts, Corrections and Shelter Programs

Law Enforcement

In law enforcement situations, the critical areas where LEP services should be provided are 911 calls, custodial interrogations and issues involving the health and safety of persons within the control of the police. 911 lines must be accessible to LEP persons, either through hiring bilingual operators or the use of a telephone interpreter service.

When responding to 911 calls, officers must have a method to communicate with LEP persons. If bilingual officers are not available, the officers should use a telephone interpreter service. Using family members to translate, especially children, is strongly discouraged because the domestic violence victim may be reluctant to speak in front of her family. Moreover, the abuser or relatives of the abuser may purposely mistranslate the victim's words.

Once a suspect is arrested, law enforcement officers must be sure that a LEP suspect understands his or her rights. A confession that is obtained from a LEP person without using a competent interpreter may be suppressed as unconstitutional. In order to use a confession, the state must show that the defendant knowingly and willingly waived his *Miranda* rights. Courts have suppressed confessions when LEP defendants have been

read their rights in English. See [*United States v. Garibay*](#), 143 F.3d 534 (9th Cir. 1998). Moreover, if a bilingual law enforcement officer acts as an interpreter, the confession may be suspect. The court will look at which party supplied the interpreter, whether the interpreter had any motive to mislead or distort; the interpreter's qualifications and skill level and whether actions taken subsequent to the conversation were consistent with the statements as translated. [*United States v. Martinez-Gaytan*](#), 213 F. 3d 890, 892 (5th Cir. 2000). In that case, the court remanded the case back for testimony from the officer who acted as the interpreter in order to determine his reliability and evaluate whether the confession was truly voluntary. An additional way to insure that LEP suspects understand their rights is to have the written *Miranda* rights translated into the common languages spoken in the jurisdiction.

In field investigations such as neighborhood canvassing, witness identification and interviewing, and investigative stops, officers should have the ability to communicate with LEP persons whether through bilingual officers, translated written documents such as consents to search, or use of bilingual employees communicating by radio or phone.

Corrections/Jails/Detention Centers

The same considerations apply with regard to serving LEP prisoners. Meaningful access to all critical and predictable services must be provided to them. The Department of Justice identifies health and safety, length of stay and discipline as critical areas.

In performing intake, the correctional facility should ensure that the LEP prisoner understands the rules of the facility, the programs available, and how to access medical treatment. This can be accomplished through interpreters, written materials, and the use

of a telephonic interpreter service or preparation of a video in the language of the LEP person.

In any disciplinary action involving a LEP prisoner, language assistance must be provided to insure that the prisoner understands the proceeding.

Interpretation for prisoners receiving medical treatment must be available. Due to the private nature of medical situations, fellow prisoners should never be used to interpret unless it is an emergency.

If an LEP prisoner is unable to participate in a particular program due to a language barrier and the failure to participate in the program could adversely impact the prisoner's length of stay, the facility should make the program accessible or waive the requirement.

Shelter Programs

As recipients of federal funds, shelters are also required to provide meaningful access to LEP persons. The type of services offered will depend on the four factors discussed previously and could range from hiring bilingual advocates, having written materials translated into the primary languages spoken by the women they serve, using volunteers within the community to help interpret, hiring interpreters on a contract basis or using a telephone language line.

The Asian Women's Shelter in San Francisco, California has done an excellent job of recruiting volunteers within their community, training them on interpreting and paying them to interpret for their clients. They have written an excellent manual on developing multilingual access that can be found at:

http://www.vawnet.org/vnl/library/general/NRC_MLAM.htm

Compliance and Enforcement of Title VI

Both the Department of Justice and the Office of Civil Rights Division of the Department of Health and Human Services investigate complaints and conduct compliance reviews of grantees. If they find noncompliance, they must approach the grantee and try to get the grantee to agree to voluntarily make the changes necessary. If the grantee refuses to cooperate, then DOJ or DHHS may choose to discontinue funding.

The United States Supreme Court has ruled that private individuals can not sue a grantee to challenge the lack of LEP services provided under Title VI. [*Alexander v. Sandoval*](#), 532 U.S. 275 (2001). Accordingly, the only remedy for an individual who is denied access to programs by the lack of LEP services is to file a complaint with DOJ or DHHS. The address for complaints is:

Coordination and Review Section
Civil Rights Section
U.S. Department of Justice
P.O. Box 66560
Washington, D.C. 20035-6560