

## Why Using an Interpreter is Beneficial to Law Enforcement?

By Leslye E. Orloff, Michael LaRiviere, and Stacey Ivie<sup>123</sup>

August 21, 2016

### Safety:

- When the crime scene is a home, victim and officer safety can be jeopardized if the officer chooses a bilingual person to interpret who, unbeknownst to the officers, is the
  - Suspect
  - The suspect's family member
  - The suspect's accomplice
- Use of a bystander to interpret may be ineffective and may compromise officer and victim safety by:
  - Not identifying the suspect
  - Preventing a weapon from being located
  - Failing to identify injuries or other injured parties
  - Failing to obtain information critical to locating and stopping a fleeing suspect
  - Misidentifying the victim as the suspect
  - Compromising or tainting a witness's testimony by using them as an interpreter
  - Believing that the suspect is a victim or witness, resulting in injury to officers and others at the scene when the suspect is not sufficiently restrained
- If the chosen interpreter is a family member of the perpetrator, he/she may omit information on the location of a weapon, the identity and/or location of the perpetrator

### Likelihood of a Successful Prosecution of the Suspect:

- Lack of professional interpretation by qualified interpreters can affect the disposition of a case
  - Victim or witness is LEP person:
    - Police reports and statements taken by police are more accurate, providing better support for prosecution
    - If the victim provides a statement and then decides not to testify, the Prosecutor has accurate statements in the record as part of the prosecution's case
    - Statements proving the crime cannot be challenged based on inaccurate interpretation
    - Avoids instances in which the LEP person made a statement in their native language at the scene and the same statement in court, but the two renditions of the statement do not match because a non-qualified interpreter was used to "interpret" statements included in the police report
  - Defendant is LEP person:
    - Poor interpretation can lead to dismissal of the criminal case against the defendant:
      - Who claims to not have understood Miranda rights; and/or
      - Because poor interpretation undermined the quality of the evidence in the case leading to insufficient evidence of guilt
    - This could result in a defendant being prosecuted for a lesser charge, dismissal of the prosecution, or a conviction being overturned on appeal

### Accuracy:

- Lack of quality interpretation leads to unreliable information when the interpreter is biased, does not have the skills, or is unqualified to interpret
- Without a professional interpreter:
  - A victim or witness who does not understand the officer will not be able to answer questions accurately

<sup>1</sup> © National Immigrant Women's Advocacy Project, American University Washington College of Law 2016

<sup>2</sup> Originally developed for The Albuquerque Police Department in collaboration with the Albuquerque Mayor's Sexual and Domestic Violence Taskforce.

<sup>3</sup> Victim Services Officer Michael LaRiviere is with the Salem Police Department in Massachusetts. Detective Stacie Ivie is with the Alexandria Police Department in Virginia.

- A suspect will not be able to follow police orders or instructions enhancing danger to police, witnesses, victims, and bystanders
- More accurate statements lead to
  - A stronger case
  - Greater likelihood that the prosecutor will choose to prosecute the case
  - Enhanced probability of a successful prosecution

**Victim or Witness May Omit Statements:**

- When an officer uses a bilingual person rather than a bilingual qualified interpreter to communicate with an LEP crime victim or witness, the victim or witness may:
  - Not be forthcoming with full information or may omit information because, for example:
    - They may know the person and not want them to know what they are communicating to the officer
- This occurs because:
  - The victim knows the interpreter who is a member of the victim’s community and the victim will not reveal, through this interpreter, the details police are seeking that the victim considers potentially embarrassing information, although such information is critical for prosecution
  - The victim knows that the “interpreter” has a conflict of interest unknown to the police
  - The confidentiality that professional qualified interpreters provide is not present and the victim feels unsafe in providing law enforcement full answers to questions through the chosen interpreter

**Promotes Efficiency and is Less Costly:**

- Language barriers make routine procedures more difficult
  - The officer cannot explain the reason for a stop or citation
- Reduces the number of times a victim will need to be interviewed to clarify “inconsistencies”
  - Saves money
- By failing to address language barriers, police departments become vulnerable to civil suits

National research in 2013<sup>4</sup> surveyed immigrant and LEP crime victims’ experiences when they called the police for help. Survey participants were 722 programs from 50 U.S. jurisdictions, primarily: domestic violence and sexual assault programs (61%); legal services agencies (12%); government officials, law enforcement, and prosecutors (9%); and immigration attorneys (6%). This national survey found that when victims of domestic violence, sexual assault, or human trafficking called police for help:

- **Police reports were not taken** in 9.6% to 14.8% of the cases
- There was a strong correlation between:
  - Inability to communicate with an LEP victim; and
  - A police report never being taken in the case

Type of Crime	Survivors Who Called Police for Help	Police Report was Not Taken	Cases in Which Victim Reported Not Being Able to Communicate Effectively With the Officers and a Police Report Was Not Taken
Sexual Assault	2,773	265 (9.6%)	51.3% (136)
Domestic Violence	9,956	1,033 (10.4%)	54.3% (561)
Trafficking	500	72 (14.8%)	55.6% (40)

<sup>4</sup> Natalia Lee, Daniel J. Quinones, Nawal Ammar & Leslye E. Orloff, *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access*, (National Immigrant Women’s Advocacy Project, American University, Washington College of Law, April 16, 2013).