

# Language barriers in the criminal justice system

The experience of victims and witnesses who speak English as a second or additional language



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# About the research project

In April 2019, Victim Support (VS),<sup>i</sup> the Institute for Crime & Justice Policy Research (ICPR) at Birkbeck, University of London<sup>ii</sup> and the Centre for Justice Innovation<sup>iii</sup> launched a research project to look at language barriers in the criminal justice system (CJS). Supported by The Bell Foundation,<sup>iv</sup> **the project asked the following questions:**

- How does an individual's English proficiency affect willingness to report a crime?
- How do language barriers affect individuals' experiences of the CJS – whether as victims, witnesses, individuals with convictions or individuals in prison/on probation?

Since the project began, Victim Support has:

- **reviewed** existing policies on victims' rights and entitlements to language support as well as the existing research on victims' experiences of language support
- **interviewed** 25 frontline professionals from a range of criminal justice agencies; services for migrants and minority ethnic communities; services for victims; and language support services
- **surveyed** 163 VS staff members and volunteers, 95% of whom had supported victims who speak English as a second or additional language (ESL)
- **interviewed** 19 victims and witnesses of crime who speak ESL about their experiences with the CJS – these included VS and non-VS service users representing a range of ages, nationalities, genders, ethnicities and regions across England and Wales – with interviews conducted in the participants' preferred language and translated into English
- **analysed** VS national-level case management data from between April 2019 and March 2020, to provide information about the volume and makeup of victims and witnesses who speak ESL who access support services.

This briefing outlines the findings from the research. Where relevant, findings from interviews with victims and witnesses are compared with findings obtained from frontline CJS professionals to illustrate similarities and differences in perspectives between the groups. Early findings on practitioners' accounts were published in February 2021 and can be accessed [here](#).<sup>v</sup>

# Analysis of Victim Support case management data

As mentioned above, to provide further information about victims and witnesses who speak ESL, an analysis of VS national case management data was conducted. Of the 112,568 people who received support from VS, 749 were identified as speaking ESL. They were identified from the information captured regarding a service user's first language and/or need for language support (excluding British Sign Language) within the case management system. The analysis revealed the following:

- Most of the victims who speak ESL were in the age groups 31–40 (34%) and 41–50 (22%).
- Female victims who speak ESL outnumbered male victims, with the former making up 71% and the latter only 29%. This is consistent with findings from the Crime Survey for England and Wales (CSEW) for the year ending March 2020, which show that women were more likely to be the victims of crime in general.
- Violence (with or without injury) was the most frequently experienced crime by victims who speak ESL (60%). This is also consistent with findings from the CSEW for the year ending March 2020, which report that violence was the crime most commonly experienced.
- 'Advice' and 'immediate emotional support' were the services VS provided most often to victims who speak ESL.
- 27% of victims who speak ESL were considered 'vulnerable or intimidated'.<sup>1</sup>
- 23% of victims who speak ESL had been a victim of crime at least once before.

1. As defined by the *Code of practice for victims of crime in England and Wales (the Victims Code)*, 'vulnerable' victims are those who are under 18 years of age at the time of the offence, suffer from a mental disorder within the meaning of the Mental Health Act 1983, have a physical disability or are suffering from a physical disorder. The Code considers a victim 'intimidated' if the quality of their evidence will be affected because of fear of distress about testifying in court.

# Findings from interviews with victims and witnesses of crime who speak ESL

## 1. Provision of language support is patchy; however, when language support is provided, most victims and witnesses find it helpful and effective

The Code of practice for victims of crime in England and Wales (2021) (the Victims Code) states that victims have “the right to be given information in a way that is easy to understand and to be provided with help to be understood, including, where necessary, access to interpretation and translation services”. The victims and witnesses interviewed for this project were generally satisfied with the level and quality of the language support they received. For example, some participants recalled that the presence of the interpreter put them at ease and helped them accurately articulate their feelings and experiences.

*“[Interpreters] were certified, really qualified. They would say right away that they are not here to judge me, everything is confidential, they won’t pass it on. They were there to translate my feelings.”*

**Survivor, domestic abuse**

Although some participants spoke positively about receiving language support, others reported that language support was not offered to them, especially during their initial encounters with the police. On some occasions, victims were denied language support after they had actively requested it because officers deemed their proficiency with spoken English sufficient to communicate without an interpreter.

*“It was 100% I would need an interpreter to explain properly what happened with me and what [the perpetrator] said or this or that... I already said to the police... I think I said, ‘Can I take interpreter?’... The police said, ‘Your English is very well. I can understand you.’ But I was needing an interpreter, to be honest...”*

**Victim, violent crime**

The absence of interpreters was linked to a number of adverse outcomes for victims and witnesses. These ranged from inaccurate statements being taken to negative effects on the victim’s well-being and trust in the police. Findings from victim and witness interviews aligned with those from frontline CJS professionals, who also described the provision of interpretation services as patchy.

The victim and witness interviews also provided evidence of CJS professionals offering alternative forms of language support where face-to-face interpreters were not provided. This included the use of Google Translate and telephone interpreters, although victims said that these language support alternatives were less helpful than having an interpreter in person.



*“So only in the first police interview I did not have an interpreter or translator with me – it was the computer program, Google translation. But as of the next interview, so second interview, after that I always had an interpreter with me... I was very nervous, and I was very stressed... But the second time when I was interviewed, in the presence of an interpreter all my statements, my previous statements, were corrected... The atmosphere was a lot better [the second time] as the interpreter was Polish as well, and so I felt a little bit more relaxed.”*

**Victim, human trafficking**

Victims and witnesses also highlighted the importance of translating written materials. Practitioners shared that pressures on time and resources may have led to a lack of translated materials, but victims and witnesses revealed how harmful this could be. Participants regarded letters sent by post regarding case progression and court case dates as being particularly difficult to understand.

*“And the way that the letters [from the Crown Prosecution Service (CPS)] are written, some of the words are in quite a high standard level of English... Even the letter which I received from the police when they let me know the date of the court, I pretty much understood only that sentence, which says ‘the court date will be at...’ that time. On the top of the letter and the bottom of the letter, there were words which I never... I didn’t understand it.”*

**Victim, hate crime**

In the absence of formal offers of language support from within the CJS (both statutory and non-statutory organisations), victims and witnesses who speak ESL turned to informal sources of language support, such as asking friends, family members, English-speaking acquaintances and charity workers to translate materials for them.

*“[The caseworker] contacted me, he sent me the emails, but obviously because I don’t speak English, I forwarded that email to my nephew [who] speaks English.”*

**Victim, violent crime**

## **2. The language support requirements of victims and witnesses with ESL are dynamic and can change over time due to a range of factors**

Language support requirements were viewed as fluid over the course of CJS proceedings. Some interviewees explained that they needed less or no support earlier in the process, for example when they were exchanging basic information with the police. However, they required additional language support later on as they encountered more complex legal terminology, for example in court or when interacting with the CPS. Other participants said that situational factors affecting their emotional state, confidence and stress levels compromised their ability to communicate in English.

***“I forgot the words I have to say with someone. Even my own language... Yes, so English is the same as well. So, it depends on the mood, it depends on the situation and it depends on the confidence as well.”***

**Victim, violent crime**

This suggests that assessments of language proficiency at an early stage do not necessarily capture the full requirements of victims and witnesses who speak ESL. Further proficiency assessments should be carried out as cases progress, either by the police or by the Witness Care Unit.

The specific language skill victims and witnesses needed also affected the requirement for language support. Some victims and witnesses were more confident with speaking rather than comprehending English, while others required more support with written English. The need for (or lack of) an interpreter should not be used to determine requirements for written language support such as translation.

***“If I am in a good mood, I can understand everything properly and I can speak properly as well... My reading [in English] is very bad, to be honest. I cannot read properly... Writing [in English] is very bad.”***

**Victim, violent crime**

### **3. Regardless of their own requirements, victims and witnesses who speak ESL believed that language support should always be offered where English is identified as someone’s second or additional language**

Frontline professionals from statutory agencies within the CJS felt reluctant to offer language support in case the suggestion offended victims and witnesses who speak ESL. However, victims and witnesses believed that language support should be offered when it is available. Interviewees felt this way regardless of whether they personally would have accepted language support. Participants emphasised that the offer should be made tactfully, for example by explaining that the question is routine.

***“I think if they say it’s part of the routine questions [to offer language support] then yes, so it’s not implied that it’s because of any other reason, that it’s just part of their normal process, then yes, they should [offer language support].”***

**Survivor, domestic abuse**

Offering language support in a sensitive way emerged from these interviews as particularly important for victims of certain crimes. Victims of terrorism and hate crime, for example, spoke of feeling particularly vulnerable following these incidents and feared that being identified as a foreign national would result in being treated differently by the police and other professionals within the CJS.

#### **4. Due to misunderstandings caused mainly by language barriers, some victims and witnesses were mistakenly identified as perpetrators or not believed by the police**

A concerning outcome associated with not offering language support was that victims and witnesses who speak ESL often struggled to articulate important circumstantial details to the police. Occasionally, because of this, police officers mistakenly identified the victim as the perpetrator.

*“He [the police officer] said that he took, I don’t know, some details from the landlord [the perpetrator], then he said to me, ‘Be careful because I’m going to arrest you’... I said, ‘What for? I mean, I called you, we called you...’ And he said, ‘You’re giving problems to the landlord...’ They were very rude.”*

**Victim, burglary**

As shown in the quote above, perpetrators who speak English as their first language can disrupt conversations between victims who speak ESL and the police. This can lead to the victim losing time and the opportunity to articulate the true nature of the situation to police officers. This view was shared by other victims and witnesses who believed that the police were less likely to listen to them once they were identified as speaking ESL.

*“I was in this country for so many years and what I gathered, have seen, is that the police don’t listen to people like us who speak Urdu and can’t speak the native language.”*

**Victim, hate crime**

#### **5. Providing language support is not enough to overcome a lack of knowledge about the functioning of the CJS**

While [previous research](#)<sup>vi</sup> conducted by Victim Support has already established that the CJS is archaic and complex to navigate, these findings suggest that these difficulties are compounded by language barriers. When victims and witnesses who speak ESL were provided with language support, there remained a lack of knowledge about their rights as victims, how cases progressed and why decisions had been made regarding prosecutions. This suggests that language support provided in isolation, without additional contextual support or information, is not enough to enable victims and witnesses to understand the complex workings of the CJS.

*“I do not understand the justice system... In this case, I was completely on my own [in court], only with an interpreter. I did not know anything about it, no one told me about the investigation that was going on.”*

**Victim, violent crime**



Victims and witnesses also thought that contact with prosecutors before going to court helped them feel at ease and safe, and provided them with useful information about the court case and the CJS process.

***“[The prosecutor] was very, very nice, she told me not to be stressed and that I could have breaks. They all behaved really good. I didn’t feel scared or threatened, I felt safe.”***

**Victim, human trafficking**

Some victims and witnesses who speak ESL expressed confusion regarding the purpose and functions of services for victims within the voluntary sector. For example, some participants were unsure about the relationship between these services and the police. At times they were caught off guard by initial contacts from caseworkers and found these introductory phone calls jarring as they were not expecting them.

***“[The caseworker] just rang, and that was another thing that was very hard to do because the police had never said anything about referring me to [charity name] at all. So, when they rang and they started asking a lot of questions, it was uncomfortable because I wasn’t expecting it.”***

**Survivor, domestic abuse**

This highlights that police officers should inform victims that they are being referred to a service. The role and independence of the service should be made clear to victims by the police and by the caseworker on initial contact.

# Overcoming language barriers

These findings suggest that there are several barriers to engaging with the CJS for victims and witnesses who speak ESL and that this may have a significant effect on an individual's well-being and experiences. There are also serious consequences in not providing sufficient language support services, such as inaccurate statements and wrongful arrests of victims. The research findings support the following recommendations.

## **Offering language support:**

- Where English is identified as a victim's or witness's second or additional language, CJS practitioners should always offer language support free of charge, as outlined in the Victims Code as part of the victim's right to understand and be understood. However, this offer should be made tactfully in a manner that does not heighten feelings of vulnerability.
- The accountability framework currently in development for the Victims Code should include monitoring requirements around the offering and provision of language support, to hold agencies accountable for the delivery of the right to an interpreter set out in paragraph 1.3 of the Code. This right must be actioned.

## **Assessing language proficiency:**

- CJS practitioners should conduct language proficiency assessments throughout the criminal justice process so that changes in language support requirements can be identified. Initial proficiency checks conducted by the police should not be relied on to gauge language support requirements at all stages of the criminal justice process.
- These needs assessments should allow for variations in language support requirements – for example, whether translation of written materials is needed but not interpretation, or where there are differences between preferences for spoken and written language support.

## **Empowering victims and witnesses with knowledge:**

- CJS practitioners should inform victims and witnesses of the different types of language support available to them – for example, interpretation and translation of written materials.
- Where possible, and where they have accepted an offer of language support, victims and witnesses could be signposted to informative materials in their preferred language.
- The role of services for victims should be explained to victims and witnesses who speak ESL by the referring agency. Providers of services for victims should ensure that the independence of the services and their role are made clear on initial contact with victims and witnesses.
- Victims and witnesses should be adequately informed of how the CJS functions, how their cases will progress, including timescales and what correspondence they should expect to receive and when.

## **Monitoring the provision of language support services:**

- All police forces and the CPS should undertake a review of their translation services to ensure that adequate services are available for all victims and witnesses of crime who require them.

# Endnotes

<sup>i</sup>Victim Support

<sup>ii</sup>Institute for Crime & Justice Policy Research at Birkbeck, University of London

<sup>iii</sup>Centre for Justice Innovation

<sup>iv</sup>The Bell Foundation

<sup>v</sup>Victim Support. (2021). *Language barriers in the criminal justice system: Initial research findings relating to victims and witnesses*. London: Victim Support.

<sup>vi</sup>Rossetti, P., Mayes, A., & Moroz, A. (2017). *Victim of the system: The experiences, interests and rights of victims of crime in the criminal justice process*. London: Victim Support.

This document is part of the series *Language barriers in the criminal justice system* from the Institute for Crime & Justice Policy Research, Victim Support and the Centre for Justice Innovation, funded by The Bell Foundation. The series was produced following a wide-ranging research project exploring the impact of language barriers on individuals' experiences of the criminal justice system, whether as victims, witnesses, suspects, defendants, or people with convictions. The series aims to strengthen the evidence base around the impact of language barriers as well as provide practical tools to allow practitioners to improve their practice in working with individuals who speak English as a second or additional language.

For more information and to view the whole series, please go to [www.bell-foundation.org.uk](http://www.bell-foundation.org.uk)

**The Bell Foundation is a charity which aims to overcome exclusion for individuals who speak English as a second or additional language by working with partners on innovation, research, training, and practical interventions.**

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