

# CULTURAL RESPONSIVENESS & THE COURTS

CENTER  
FOR  
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INNOVATION

*Viewers' Guide to Building a Culture of Justice:  
How Courts are Improving Access and  
Understanding in Domestic Violence Cases*

*Building a Culture of Justice* is a multimedia training tool aimed at assisting justice-system staff and stakeholders on implementing culturally-responsive best practices in courts handling domestic violence cases. This guide is designed to help viewers explore ideas surrounding culture, specifically a survivor's culture as it relates to enhancing safety and access to justice.



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Institute on Gender-Based Violence](#).

# WHAT IS CULTURE?

As you watch *Building a Culture of Justice*, consult the guide below to explore ways that courts can implement culturally-responsive practices. For a comprehensive checklist of best practices for courts, please see page 8.

Standard definitions of culture are often limited to notions of race, ethnicity, and nationality. However, the critical meaning of culture extends beyond those labels and refers to shared experiences or commonalities that have developed and continue to evolve relative to changing social and political contexts.

## Culture includes:

- Race
- Ethnicity
- National origin
- Sexuality Gender
- Religion
- Age
- Class
- Language
- Disability status
- Immigration status
- Education
- Family structures
- Geographic location
- Generation or era
- Other axes of identification within the historical context of oppression<sup>1</sup>

1. Sujata Warriar, Training and Technical Assistance Director, Battered Women's Justice Project, *Recognizing the Impact of Cultural Misinformation*.

“Cultural responsiveness is the ability to learn from and relate respectfully with people of your own culture as well as those from other cultures.”

National Center for Culturally Responsive Educational Systems

## What other types of culture can you think of?

Consider how a more nuanced and layered understanding of culture allows for the diversity of individual experiences. An individual can live at the intersection of many types of culture and depending on context, may identify more strongly with some cultural aspects over others.

Like the individuals that they serve, courts have distinct cultures. Reflect on the first time you ever walked into a courthouse and the way you felt. *What was your gut reaction? What messages did the court convey? Did the court seem welcoming, friendly, or intelligible? In what ways could it improve those qualities? What personal experiences have you had that influenced those feelings? How might you feel differently if you identified with another cultural group?*

While court procedures, protocols, and structure may seem clear to court staff, litigants may have dozens of questions. In order to respond to the needs of the diverse communities they serve, courts should promote welcoming and inclusive environments. In fact, for survivors of domestic violence, court culture can have a direct impact on access to justice. Access includes issues such as procedural justice, court safety, and language services. Survivors of domestic violence may come to court for a variety of reasons: to seek specific legal relief, speak with an attorney or advocate, or simply because that's what they were advised to do. In order to keep survivors safe while ensuring offender accountability, courts should implement culturally-responsive services that are accessible to all litigants.

All individuals should be able to access the civil and criminal justice systems and obtain fair and just outcomes, regardless of social status, immigration status, or past involvement with the criminal justice system. Courts can work to improve access to justice by eliminating barriers that prevent individuals from understanding and exercising their legal rights and obtaining the outcomes they seek.<sup>2</sup>

While viewing *Building a Culture of Justice*, notice that Alex's ability to access justice directly hinges on a number of factors, including the presence of procedural justice, an efficient and safe court structure, the availability of language access services, and a welcoming court culture. Courts should consider implementing culturally-responsive best practices in these areas in order to serve all litigants effectively.

2. U.S. Department of Justice's Office for Access to Justice, *Mission*.

**Procedural Justice** refers to the fairness of justice procedures and interpersonal treatment of litigants, victims, and defendants. Research indicates that litigants are more likely to comply with court orders and follow the law if they felt that they were treated fairly, even if the final outcome was not in their favor.<sup>3</sup>

Increased compliance is important in domestic violence cases because it results in fewer violations of court orders, fewer returns to court, reduced dockets, and less strain on court funding and resources.

#### Elements of Procedural Justice

- *Voice*: litigants can express their views and have others advocate on their behalf
- *Respect*: litigants feel recognized as individuals whose voices matter
- *Neutrality*: all parties have a fair opportunity to present facts and make arguments in court
- *Understanding*: litigants understand court proceedings and their rights

#### Equal Representation

- Attorneys are available to represent victim-litigants and offenders

3. Tom R. Tyler, Macklin Fleming Professor of Law and Psychology, Yale Law School, *Procedural Justice, Legitimacy, and the Effective Rule of Law*.



Upon entering a courthouse, litigants may not know where to go or who to speak with. The physical layout and availability of signs and resources in the court enables greater access for all litigants and preserves their safety by directing them on how to navigate the courthouse. Courts should engage diverse community members in planning the building, renovation, and enhancement of the physical space.

## Clerk's Office

- Availability of culturally-specific resources and referrals to domestic violence advocacy and social service organizations for survivors, offenders, and children

## Accessibility

- Reachable distance and location for low-income and rural communities
- Physical accommodations for people with disabilities and elderly

## Security

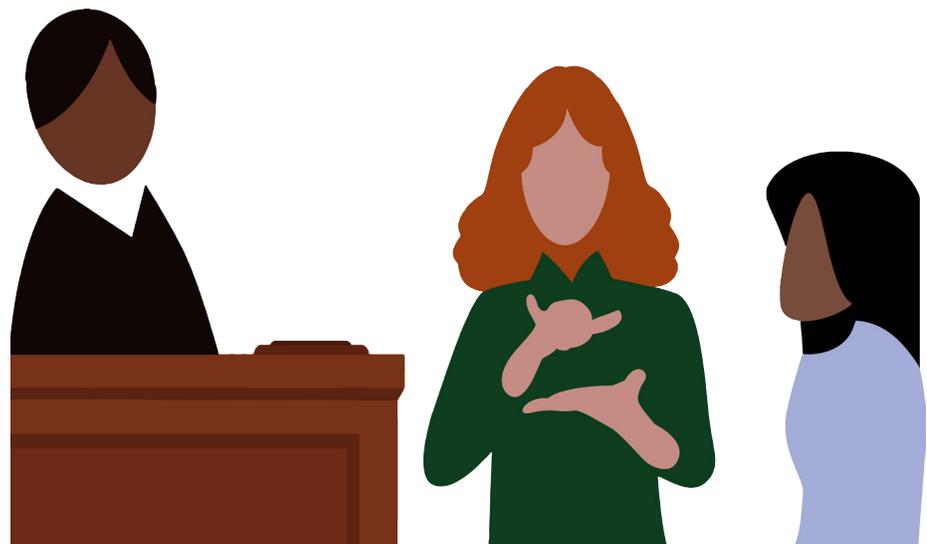
- Facilitation of a safe and neutral environment for all parties through the separation of petitioners and respondents, the presence of security staff, and flexible scheduling for survivors



A commitment to ensuring comprehensive language access goes beyond providing interpretation. Litigants may have varying reading comprehension levels or need translated materials. Courts should assess their community's population to discover the language needs and think about ways to include language access issues into their coordinated community response to domestic violence.

## Limited English Proficiency (LEP)

- Ensure all forms, petitions, and orders are written in Plain English, i.e. clear, concise, and straightforward writing that avoids overly technical language
- Perform a needs assessment to determine which languages other than English are spoken by a significant number or percentage of the population in order to communicate effectively
- Ensure that interpreters are trained and comfortable using language describing domestic violence
- Family, children, and community members should never serve as interpreters
- Help raise community awareness on the availability of language services
- Train judges and court staff on the appropriate use of interpreters



Perhaps most significant in creating courts that are culturally responsive is the welcoming attitude towards litigants and the continuous commitment to expanding accessibility. Courts can achieve a more responsive culture by training court staff on identifying their own biases and engaging with individuals from all backgrounds and skill sets.

## Gender Identity & Sexuality

- Ensure that court forms and orders are gender-neutral and/or allow litigants to define their own preferred gender pronoun
- Judges and court staff should not assume litigants are in a heterosexual relationship or that the survivor is female and the abusive partner is male\*
- Judges and court staff should receive training on LGBTQ-specific issues in domestic violence cases
- Many languages have female and male words so courts should request that translations include both words or make language as gender neutral as possible

## Culture & Domestic Violence

- Train judges and court staff on the dynamics and realities of domestic violence in culturally-specific communities
- Promote awareness towards varying cultural norms for addressing judges, testifying, court demeanor, past behavior, etc.
- Collaborate with culturally-specific organizations in the community
- Understand the fear of deportation or mistrust of the justice system due to immigration status of some litigants
- Avoid enforcing the idea of a “perfect victim” by recognizing that victims behave and react in a variety of ways

### \*Gender and Victim Identity

As is depicted in the video, survivors of domestic violence are often assumed to be female. While rates of domestic violence are higher against women, other demographics also experience this devastating issue.

One in four adult males are victims of domestic violence. In addition, the transgender community faces a greater risk of violence due to discrimination and transphobia. Courts should be aware of issues surrounding gender identity in order to protect all survivors from violence.

# DISCUSSION QUESTIONS

Now that you've viewed *Building a Culture of Justice*, use the questions listed below to consider how courts currently engage survivors of violence.

- Why is cultural responsiveness particularly important within the context of engaging survivors of domestic violence like Alex?
- In the video, Alex initially feels ignored and lost in court. What do you think contributes to court staff feeling disconnected from survivors? What are ways to link courts to the communities that they serve?
- What types of court staff and stakeholders are depicted in the video? How do their individual interactions with Alex contribute positively or negatively to her experience?
- What are some examples of how cultural norms may be misinterpreted between litigants and court staff?
- In the video, Alex isn't depicted with her friends or family. Who is in a survivor's support network? What about the offender? How does the court include or exclude these support networks?
- Consider how Alex's experience would differ if she had children with her abusive partner. Are there reasons the survivor and offender may need to maintain communication?



Your Court and Community

- What does the concept of culture mean to you? What does it include and why? How do you describe your own culture?
- What types of culture were referenced or depicted in the video? How might the court system be structured to meet the needs of diverse cultures?
- What types of culturally-responsive practices did you see in the video? Are there other best practices that the video did not depict? Consult the list on page 9.
- What are some ways in which your court implements culturally-responsive practices? What are some ways in which your court comes up short?
- Think about what Alex would encounter in your court. What types of changes can your court make to be more friendly towards litigants from different cultures?
- How can you begin the process for implementing some of these best practices to make your court more culturally responsive to litigants?
- Which stakeholder support do you need the most to facilitate widespread buy-in and changing the culture of your court?



# CULTURALLY-RESPONSIVE BEST PRACTICES

## NEXT STEPS FOR YOUR COURT

- Create or enhance an existing committee or focus group on issues of language access, procedural justice, and court structure
- Identify and appoint a key stakeholder or judicial leader to act as a convener
- Create a litigant feedback form or conduct a needs assessment to identify existing gaps
- Hold regular stakeholder meetings and invite culturally-specific organizations to participate
- Rotate the location of meetings among different participating agencies
- Collaborate with national technical assistance providers for support on expanding knowledge of promising practices around domestic violence cases, providing effective interpretation, improving procedural justice, and implementing other culturally-responsive resources and trainings

## PROCEDURAL JUSTICE

- Train judges and court staff on the elements of procedural justice: voice, respect, neutrality, and understanding
- Judges should ensure that litigants understand court procedure. Consider designing a script for the bench
- Train court staff on domestic violence dynamics
- Provide brochures and information stations that are clearly designated for litigants
- Design signage that is respectful and clear
- Provide both victims and offenders with civil legal attorneys, if available

## COURT STRUCTURE

- Link both victims and offenders to services and resources, such as domestic violence agencies, self-help centers, and social services
- Ensure that the court is accessible through public transportation. The court may consider partnering with transportation services for litigants who cannot access public transportation

- Prevent delays by scheduling cases efficiently and considering the work schedules of parties
- Install ramps and elevators and design wide hallways for parties using wheelchairs
- Train security staff on domestic violence dynamics
- Separate victims and offenders in and outside of the courtroom and waiting rooms. Station? security in the hallways, and other relevant areas

## LANGUAGE ACCESS

- Use plain English in court forms, orders, and during court appearances
- Explain court procedure, forms, and orders clearly from the bench and in writing
- Use language line and certified court interpreters, including sign language interpreters if necessary. Train judges and court staff on using these services
- Translate court forms and orders into major languages of the jurisdiction
- Create clear signage in major languages of the jurisdiction
- Hire bilingual police officers, court staff, attorneys, and advocates to perform their professional roles in multiple languages (but not to be used as surrogate interpreters)
- Offer culturally-responsive probation and offender programming and treatment

## COURT CULTURE

- Design gender-neutral court forms and orders
- Encourage litigants to indicate preferred gender pronouns
- Link litigants to culturally-specific services, including domestic violence programming
- Train judges and court staff on implicit bias, LGBTQ-specific issues, and immigration issues related to domestic violence
- Train judges on accommodating victims who must maintain contact with abusive partners

### For More Information

Please consult the following toolkits on language access: *Increasing Language Access in the Courts* by Casa de Esperanza, *Language Access in State Courts* by the U.S. Department of Justice, and *Effective Court Communication: Assessing the Need for Language Access Services for Limited English Proficient Litigants in Domestic Violence, Sexual Assault, Dating, and Stalking Cases* by the National Center for State Courts and Center for Court Innovation.



[www.courtinnovation.org](http://www.courtinnovation.org)



[www.nationallatinonetwork.org](http://www.nationallatinonetwork.org)



[www.api-gbv.org](http://www.api-gbv.org)

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