



How Legal Services Can Better Serve AAPI Older Adults

By Denny Chan and Vivianne Mbaku, Justice in Aging¹

Like many others in her community, Dorothy, a Chinese American 73-year-old in Seattle's Chinatown, has had a tough year and a half. Despite finally getting vaccinated, Dorothy has found that the COVID-19



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pandemic has altered her life in permanent ways, including the closure of some of her favorite neighborhood businesses. Because of the spate of violent attacks on the Asian American and Pacific Islander (AAPI) community, Dorothy has cut down her daily grocery shopping — a favorite social pastime of hers — to only once a week and generally stays indoors. But even before the pandemic reached her community, Dorothy had specific and unique needs as an AAPI older adult that were not always met. Issues like language access, public benefits and health disparities showed up in Dorothy's life and in the lives of many others like her. Legal services attorneys can better meet the unique, intersectional needs of AAPI older adults like Dorothy through improving language access policies, partnering with community-based organizations serving AAPI communities, trauma-informed, culturally competent lawyering, and improving internal hiring and data collection policies.

The term AAPI is an umbrella term reflecting many different places of origin, including people from East Asia, Southeast Asia, the Indian Subcontinent and the Pacific Islands, altogether including over 30 countries and over 100 spoken languages. According to

Census data, the AAPI community is one of the fastest growing groups in the United States. More specifically, AAPI older adults constitute over five percent of the total older adult population and over ten percent of the total AAPI population in the United States. States like California, New York, Texas, and Hawaii have the largest AAPI older adult communities, cumulatively accounting for more than half of AAPI older adults who are 65 years old or older. But AAPI older adults are not simply concentrated in those states. In fact, states like North Dakota, Minnesota, South Dakota, Vermont, North Carolina, Tennessee, Georgia, Florida, Wyoming, and Indiana in addition to Texas have the highest growth in AAPI older adult populations.

Higher Rates of Poverty Among AAPI Older Adults and the Importance of Safety Net Programs

Despite notions of AAPI wealth fueled by the model minority myth, certain AAPI older adults experience higher rates of poverty than white older adults and sometimes even higher than other older adults of color. Poverty rates are particularly high among older adults who are Bangladeshi (24%), Burmese (20%), Cambodian (24%), Chinese (19%), Hmong (18%), Korean (20%), Micronesian (27%), Nepalese (23.5%) and Vietnamese (19%). Meanwhile poverty rates

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among white older adults hover slightly above seven percent, Black and Native American older adults at 19% and Latino older adults at 18%. The higher rates of poverty among certain AAPI older adults demonstrate the misleading nature of the model minority myth and confirms the need for both disaggregated and intersectional data for AAPI older adults.

Significant rates of poverty for AAPI older adults re-affirm the critical role of robust safety net programs to ensure the economic security, health, and wellness of AAPI older adults. Programs like Medicare, Medicaid, and Supplemental Security Income are vital to AAPI older adults, particularly during the COVID-19 pandemic when economic inequality has soared. Older Americans Act services, like transportation and meals, also are critical. As public health officials asked them to stay at home and minimize in-person social interaction with others, many older adults left routine medical needs unaddressed. Even now with many older adults fully vaccinated, some Asian American older adults still report not feeling comfortable leaving their home given the rise in horrific and violent attacks.

Limited English Proficiency Results in Poorer Health Outcomes Among AAPI Older Adults

AAPI older adults also experience higher rates of limited English proficiency (LEP), a term meaning that an individual speaks English less than very well. It includes people who are monolingual in a non-English language but also encompasses individuals who may have a limited understanding of English. Limited English proficiency is a significant issue among AAPI older adults, with nearly 60% of Asian American and 25% of Native Hawaiian Pacific Islanders 65 years-old and older reporting LEP status.

Navigating complex systems like government benefits programs as an LEP older adult has a significant impact on their quality of life. Older adults understandably rely on communication with and access to health-care as they age, but those systems may not respond in a way that recognizes their language needs, resulting in poorer health outcomes. For example, it may be difficult for someone like Dorothy to find a specialist who speaks her language, or for her to independently understand a document in English from her health insurance company without help from others. Indeed, research demonstrates that LEP older adults are significantly worse off than English-only older adults in the

majority of measures of access to care and health status, citing that LEP older adults had a 52% increased risk of reporting poorer emotional health compared to English-only speakers. Unfortunately, recent changes in federal law have rolled back language access protections in healthcare, including for LEP AAPI older adults, which may exacerbate existing disparities. In addition to LEP status contributing to health disparities, AAPI older adults also report difficulty getting transportation and a lack of health insurance coverage as posing barriers to accessing care.

Recent Wave in Anti-Asian Violence Targets Asian American Older Women

Although xenophobic anti-Asian hatred is deeply intertwined with the history of the United States, the recent spate in anti-Asian violence is particularly concerning with respect to older adults. Hate crimes generally remain underreported, but many of the recent high-profile attacks from Atlanta, Georgia, to San Francisco, New York, and Baltimore have involved older Asian American women. In understanding these events through an intersectional framework, the intersection of sexism, racism, and ageism operate in such a way that may create a perception that older Asian American women are easier, more vulnerable targets. While helpful, robust federal hate crimes laws will not resolve the underlying discrimination motivating these attacks.

Recognizing the intersectional identities of the victims also requires acknowledging how this violence may impact older AAPI clients of legal aid, upholding the need for culturally competent, trauma-informed lawyering, while also investing in solutions that are grounded in community and do not perpetuate the racism of policing.

Recommendations for Legal Services Providers in Serving AAPI Older Adults

1. Review and ensure policies provide appropriate language access for LEP AAPI older adults

Given the extent to which many older Asian American and some older Pacific Islanders are LEP, legal services providers can better serve them by ensuring appropriate, timely, and free language access services. As a general matter, all legal services providers should create and regularly maintain a language access plan that details the types of interpretation and translation services they provide and review the needs of local LEP communities, including AAPI older adults. The

proliferation and affordability of virtual interpretation services has enabled greater access to LEP communities generally, but serving older adults requires some attention to specific considerations. For example, AAPI older adults may not have as much proficiency in technology or even have the technology required to use virtual interpretation. When translating documents — a brochure advertising legal services, for instance — providers should make sure that the font size is legible for individuals with minor visual impairments and also test the reading level with AAPI older adults directly.

When providing interpretation services, legal services providers should consider the value in-person interpretation can bring to AAPI LEP older adults by hiring multilingual staff who are qualified, not just those who are may have grown up speaking a language at home but are not otherwise competent to interpret legal vernacular pertaining to rights and benefits. AAPI older adults may also prefer working with an interpreter or bilingual attorney with whom they have established a relationship rather than working with ad-hoc remote interpreters, especially if the conversations contain more sensitive information.

Finally, for a number of reasons, LEP AAPI older adults may be reluctant to ask for interpretation services or may be overly reliant on family caregivers or other trusted sources. Although the choice to ask for interpretation services ultimately falls on the LEP individual, legal services providers should ensure AAPI older adults know about their affirmative right to free and timely interpretation services and that they do not necessarily need to rely on informal interpreters by, for example, repeatedly identifying the benefits and confidentiality of professional interpreter services.

2. Ensure internal hiring and data collection policies best serve AAPI communities

In addition to reviewing and ensuring that organizational policies provide robust language access for AAPI older adults, legal services providers should also ensure that internal hiring and data collection policies best serve AAPI older adults.

As identified above, one way of ensuring better language access is hiring bilingual staff who are qualified to interpret and translate in different AAPI languages. Hiring a diverse staff — inclusive of AAPI individuals — and retaining them with equitable and inclusive policies positions legal services providers to better serve many different communities, as these staff can leverage their own lived experiences in working directly with clients. A focus on hiring should ensure

that bias at all stages of the hiring process is mitigated as much as possible and should not end when the offer is accepted. Hiring practices should be paired with policies designed to retain staff, including for example, providing space for staff to prioritize diversity, equity and inclusion within the organization.

In addition, the collection and disaggregation of data is a perennial issue for AAPI communities, who are disadvantaged when underlying disparities among specific sub-groups are masked by lumping all sub-groups together. Legal services providers should ensure that internal policies regarding the collection of client information, like race and ethnicity, allow clients to self-identify among different AAPI sub-groups and then use a database that permits such disaggregation. Staff should also be encouraged to identify trends among cases with an intersectional approach in mind. For example, are certain issues uniquely or disproportionately impacting not just AAPI individuals, but is there a uniquely or disproportionate impact on AAPI older adults?

3. Prioritize partnerships with community-based organizations serving AAPI older adults

Community-based organizations have long been a useful source of client referrals and connections to additional services for legal services organizations. In reaching specific cultural groups, like AAPI older adults, reaching out to community organizations can be the easiest way to ensure as many people as possible know about your services.

When seeking out these potential new relationships or maintaining existing partnerships, it is important to prioritize mutual understanding and show that your organization is committed to continued service to the community. This may include sharing intake and eligibility guidelines so that community organizations are clear on who you are able to serve. Providers should also make resources available in languages spoken by the community and have interpreters available for all client meetings. Further, clarifying your role in the legal system is important to building relationships based on trust. Many communities of color, including AAPI communities, may have had negative interactions with police, social service agencies, and government more generally in the past, and for older adults, especially in their countries of origin. They may feel that any collaboration may expose community members to discrimination, law enforcement, or immigration authorities. A significant number of AAPI individuals are undocumented. Therefore, it is important for

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legal services organizations to make clear that their role is one of an advocate. Explaining ethical standards and privacy standards will go far in showing that legal services will not engage in harmful practices against community members.

Finally, hiring staff who represent the communities you are trying to serve is critical. Staff representation will go far in not only showing your commitment to a specific community, but also in building long lasting relationships.

4. *The Importance of Trauma-Informed and Culturally Competent Services*

Trauma-informed and culturally competent practices should be the bedrock of any legal services organization, but especially those seeking to improve their service to older AAPI adults. The impacts of various traumas (childhood trauma, historical trauma, racial trauma, etc.) can impede effective advocacy and prevent potential clients from seeking services. Further, our own implicit biases may impact our ability to understand our clients and their needs. Trauma-informed and culturally competent practices ensure attorneys and staff honor the lived experiences of their clients and recognize how they may impact representation. In light of historic and current discrimination against AAPI community members, these practices are key to providing competent legal services.

a. Trauma-Informed Lawyering

Trauma-informed lawyering at its core is the recognition of the impact of trauma and actively seeking to reduce re-traumatization. The American Psychological Association defines trauma as “an emotional response to a terrible event like an accident, rape, or natural disaster.” Trauma is expected to impact the lives of up to one-third of Americans. New studies also link higher rates of Post-Traumatic Stress Disorder among racial minorities to the experience of racial discrimination. Trauma experienced from exposure to discrimination based on race, or racial trauma, is extensive among members of racial minority groups. In the legal aid context, attorneys should consider that a majority of their clients are people of color and that the basis for representation may be traumatic in and of itself, for example: eviction, immigration, disability, divorce, child custody disputes, and protective orders. For the AAPI older adult population, we can easily assume

that many community members are experiencing trauma from the recent onslaught of anti-AAPI attacks across the country in addition to any trauma they may have experienced when leaving their home countries, including war, poverty, and other issues.

Trauma impacts the brains of those who experience it, leading to temporary impairment of the prefrontal cortex, where decision making and memory occurs. These psychological effects can persist long after a traumatic experience has ended. In fact, re-exposure to environments similar to that of the traumatic experience can lead to feelings similar to those they experienced during the original traumatic experience. These effects can make recounting a traumatic experience, for example to an attorney, quite difficult. Clients may feel agitated, overwhelmed, or even resist seeking help for fear of the emotions and lack of safety they may feel when recounting a traumatic event.

Considering the impact of trauma and the traumatic nature of many legal services areas of practice, it is imperative that civil legal aid attorneys integrate trauma-informed practices to mitigate the impact trauma may have on representation. Common examples of trauma-informed practice include providing accommodations for client interviewing or extensive witness preparation to alleviate client anxiety. Trauma-informed lawyering practices focus on giving clients power and control back over their cases and lives, when traumatic events have taken these away. Trauma-informed practices tend to cost little to no money, but do take extra time, which is often rewarded with better client outcomes. Legal services providers can start making their practice more trauma-informed by training their staff on trauma-informed practices and the impacts of secondary trauma. Resources on these subjects can be found at <https://ncler.acl.gov/>.

b. Cultural Competence

In addition to trauma-informed practices, the integration of cultural competence is equally important and impactful. Cultural competence is the ability to adapt your individual practice, legal or otherwise, to culturally diverse situations, rejecting cultural assumptions or stereotypes, and recognizing how assumptions and stereotypes may impact the delivery of services. In practice, cultural competence also includes acknowledging your own implicit biases and constantly working to prevent them from influencing your practice in a negative way. For lawyers, cultural competence also involves the rejection of traditional “lawyer/legal culture” approaches to clients and their issues.

Culturally competent lawyers understand that courts may not always be the best way to mitigate a dispute and that their client is the expert in their own life and well-being.

Cultural differences can impact every step of representation and lead to attorneys inadequately advocating for their clients. For example, an attorney may interpret the sharing of an older adult's retirement funds with the rest of the family as abusive or exploitative. In contrast, the older adult may see the pooling of money as a part of their culture and have a strong sense of pride in their ability to financially support their loved ones. Using culturally competent practices, a legal services attorney is not rigidly bound by their own interpretation of a client's life. They can then center the client, their culture and lived experience, and their goals in determining a legal strategy and provide truly client-centered advocacy.

Legal services providers can start enhancing the cultural competence of their staff by engaging in trainings or CLEs on the topic and encouraging interested staff to create affinity groups to further make recommendations for the organization. More resources on this subject can be found at <https://ncler.acl.gov/>.

Conclusion

AAPI older adults have unique needs that arise at the intersection of age and race, like poverty, limited English proficiency, and prolific anti-Asian hate. These needs can best be addressed by legal services providers who actively understand these issues and incorporate this understanding into their lawyering. This incorporation includes robust language access policies, internal hiring and data collection policies that best serve AAPI communities, prioritizing community partnerships, and centering AAPI older adult clients through trauma-informed and culturally competent lawyering.

1 Denny Chan serves as Justice in Aging's inaugural Directing Attorney for Equity Advocacy. In this role, he is responsible for developing and leading Justice in Aging's Strategic Initiative on Advancing Equity, with a primary focus on race equity for older adults of color,

and he also coordinates the organization's equity team. He joined Justice in Aging as an attorney on the health team in 2014 and is based in Los Angeles, CA. The son of working-class Chinese immigrant parents, Denny has worked significantly on non-discrimination, language access, and healthcare delivery reform issues for low-income older adults and brings all of these experiences to his advocacy. He previously served as a rotating law clerk for the U.S. District Court in Los Angeles and participated in the Fulbright English Teaching Program as a fellow in Macau, China. Denny is a member of the California bar and is a graduate of the University of California, Irvine School of Law. He received his B.A. from the University of Michigan. Denny may be reached at dchan@justiceinaging.org.

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