



## Prosecuting Attorneys' Council of Georgia

**Policies & Procedures**

Approved Jan. 7, 2014

**11.3**

**Victim Services**

**Limited English Proficiency Policy**

### 1. Purpose.

- (a) The purpose of this Limited English Proficiency (LEP) Policy is to demonstrate compliance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. The LEP Policy is for persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. Such persons may be eligible to receive language assistance with respect to a particular service, benefit, or encounter.
- (b) The Council understand that LEP persons do not speak English as their primary language and have a limited ability to read, write, speak, or understand English; that many LEP persons are in the process of learning English and may read, write, speak, or understand some English, but not proficiently; that an individual may have sufficient English language skills to communicate basic information (name, address, etc.) but may not possess sufficient skills to communicate detailed information (e.g., medical or eyewitness information) in English; that LEP persons may not always self-identify and may state that they understand more English than they actually do fearing differential treatment as LEP persons; and, that context affects English language proficiency. Unfamiliar or stressful situations, including legal proceedings or health-related matters, can affect language ability in individuals who are otherwise proficient in English.
- (c) This Policy establishes policies, procedures and conditions that primarily will apply in cases in which the Executive Director of the Prosecuting Attorneys' Council has been appointed as a District Attorney or Solicitor-General Pro Tempore pursuant to O.C.G.A. §§ 15-18-5 or 15-18-65.
- (d) This policy also is intended to serve as model which may be used by any prosecuting attorney's office.

### 2. Authority.

- (a) 42 U.S.C. § 2000d.
- (b) Office of the President of the United States, Executive Order 13166, subj: *"Improving Access to Services for Persons With Limited English Proficiency"* (2002).



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- (c) U.S. Dept. of Justice, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002).
- (d) O.C.G.A. § 15-18-40, et seq.
- (e) O.C.G.A. § 24-6-604.
- (f) Ga. S.Ct., *Use of Interpreters for Non-English Speaking and Hearing Impaired Persons*, as amended.
- (g) *Ling v. State*, 288 Ga. 299 (2010).

### 3. Scope.

- (a) The Council's authority to interact with members of the public is limited by O.C.G.A. § 15-18-46.
- (b) Because the Council provides support to prosecuting attorneys throughout the state, and Georgia is a recognized center for international trade and tourism, the Council staff may interact with a wide range of LEP persons.
- (c) When interacting directly with members of the public, the Council staff will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs, and other benefits.
- (d) When assisting a District Attorney, Solicitor-General or other prosecuting attorney, Council staff will follow the LEP policy and procedures for that office.
- (e) When the Council staff is prosecuting a case in which the Executive Director of the Prosecuting Attorneys' Council has been appointed as a District Attorney or Solicitor-General Pro Tempore pursuant to O.C.G.A. §§ 15-18-5 or 15-18-65, this policy provides for communication of information contained in vital documents, including but not limited to, waivers of rights, witness statements, and restitution worksheets.



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- (f) All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and victims/witnesses and their families will be informed of the availability of such assistance free of charge.
- (g) The Executive Director or his or her designee will conduct periodic reviews of the language access needs of our victim/witness population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

#### **4. Definitions.**

- (a) "Hearing impaired person" means any person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit the person from understanding oral communications when spoken in a normal conversational tone.
- (b) "Non-English Speaker" means any person who cannot readily understand or communicate in spoken English and who consequently cannot equally participate in or benefit from the proceedings unless an interpreter is available to assist him or her. The fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.
- (c) "Interpreter" means:
  - (1) Any person certified or registered by the Georgia Commission on Interpreters as an:
    - (A) Interpreter; or
    - (B) Conditionally approved interpreter.
  - (2) Any person authorized by a court to translate or interpret oral or written communication in a foreign language during court proceedings.
- (d) "Court Proceedings" means a proceeding before any court of this State or a grand jury hearing, including, when authorized by law, depositions.

#### **5. Procedures.**

- (a) Identifying LEP Persons and Their Languages.



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Staff will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or "I speak" cards) or posters to determine the language. In addition, when records are kept of past interactions with victims or witnesses or family members, the language used to communicate with the LEP person will be included as part of the record.

(b) Obtaining a Qualified Interpreter.

(1) The Director of Victim Services is responsible for obtaining an outside interpreter if a bi-lingual staff or staff interpreter is not available or does not speak the needed language. The Director of Victim Service is also responsible for coordinating with the Director of Financial Services for payment of interpreter services.

(2) Court proceedings.

(A) An interpreter who is certified or registered by the Georgia Commission on Interpreters or who is otherwise authorized by the Rules of the Georgia Supreme Court to interpret during court proceedings will be utilized.

(B) Whenever possible interviews of LEP witnesses that may be subject to disclosure under discovery rules or statutes will be interpreted by an interpreter who is certified or registered by the Georgia Commission on Interpreters.

(3) If the LEP person is a victim of a crime and is a citizen of a country that has a consulate located in the Atlanta area, the consulate may be contacted and requested to provide interpreter assistance to their citizen.

(4) Use of Language Line Services. If a interpreter is not available, a commercial language line service may be utilized. Available services are:

(A) AT&T USADirect® In-Language Service:  
[www.att.com/media/att/2011/.../USADirectTravel-LangAsst.pdf](http://www.att.com/media/att/2011/.../USADirectTravel-LangAsst.pdf)

(B) LanguageLine Solutions:  
<http://www.languageline.com/>



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(5) Use of Family or Friends of LEP Persons.

- (A) Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person.
- (B) Children and other victims/witnesses will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

(c) Written Translations.

- (1) Whenever possible, the staff will use translations of vital documents that are available through a District Attorney's or Solicitor-General's office or other agencies.
- (2) When translation of a document is needed, staff will submit the documents for translation into frequently-encountered languages to the Director of Victim Services.
- (3) Original documents being submitted for translation will be in final, approved form with updated and accurate legal information.
- (4) The Council will provide translation of other written materials, if needed, as well as written notice of the availability of translation, free of charge, for LEP individuals.