



Order

Subject: Language-Access Policy

1. **Purpose.** This Order sets out the language-access policy of the Office of Justice Programs (OJP). The purpose of this policy is to implement reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to its federally-conducted programs and activities.
2. **Scope.** This Order applies to OJP's federally-conducted programs and activities that involve interactions with members of the public. Because this Order only applies under these circumstances, it does not require OJP components or personnel to provide interpretation or translation services to applicants or recipients of OJP funds. This Order also does not cover federally-assisted programs and activities, such as those conducted using federal funds awarded by OJP to recipients via grants or cooperative agreements; nor does it cover any programs or activities conducted by other federal agencies using OJP funds (*e.g.*, by transfer or intra-/inter-agency agreement).
3. **Effective Date.** This Order is effective upon the issuance date.
4. **Authority.** Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 16, 2000).
5. **Definitions.**
 - a. Bilingual refers to the ability to understand and communicate fluently in two languages (generally, as used here, English and another language).
 - b. Federally-conducted program or activity means a program or activity that is undertaken directly by a federal agency, whether through its own personnel or via contract. Generally, as used here, such a program or activity will involve either--- (1) general public contact as part of ongoing federal agency operations, or (2) a federal agency's administration of a service or benefit that involves persons who are beneficiaries or participants.
 - c. Interpretation means the act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
 - d. Language-assistance services generally means interpretation, translation, sight translation, or other services, as appropriate, that assist LEP Persons in understanding or communicating with OJP.

- e. LEP Person means an individual whose primary spoken language is not English and who has a limited ability to read, write, speak, or understand English. LEP Persons may be competent in certain types of communication (*e.g.*, speaking or understanding), but still have limited English proficiency for other purposes (*e.g.*, reading or writing).
- f. Primary language means the language in which an individual is most effectively able to communicate.
- g. Translation means the rendering of written text from one language (source language) into an equivalent written text in another language (target language), while retaining the same meaning.
- h. Vital document means paper or electronic written material that contains information critical for accessing OJP's federally-conducted programs or activities.

6. **Language-Access Coordinator.** The Director of the OJP Office for Civil Rights (OCR) is designated as OJP's Language-Access Coordinator (LAC). The LAC serves as the point of contact for OJP's language-access efforts.

7. **Meaningful Access to Federally-Conducted Programs and Activities.** All OJP personnel, including employees, volunteers, fellows, and contractors, shall take reasonable steps to ensure that LEP Persons have meaningful access to OJP's federally-conducted programs and activities.

To ensure meaningful access, OJP personnel shall provide reasonable and free language-assistance services to LEP Persons whom they encounter, or whenever an LEP Person requests language-assistance services relating to one of OJP's federally-conducted programs or activities.

The nature and scope of language-assistance services provided shall be determined on a case-by-case basis after evaluating each such encounter or request, based on the totality of the circumstances and using the following four-factor test:

- The number or proportion of LEP Persons served or encountered in the eligible service population;
- The frequency with which LEP Persons come in contact with the program;
- The nature and importance of the service or benefit provided by the program; and
- The resources available to the agency and costs.

Any OJP personnel who have questions about whether, or how, to provide effective language-assistance services to LEP Persons should refer to the LAC.

8. Initial Interactions with LEP Persons.

- a. Staff responsibility. At the first point of contact with a person reasonably believed to be an LEP Person, OJP personnel should, taking into account the principles set out above, determine the person's primary language and obtain appropriate language-assistance services, if indicated. OJP personnel may seek assistance from a supervisor or the LAC.
- b. Supervisor responsibility. OJP supervisors, in consultation with the LAC, should ensure that OJP personnel who interact with LEP Persons are prepared to, among other tasks:
 - Identify situations that involve typically-anticipated interactions with LEP Persons;
 - Determine the primary language of LEP Persons; and
 - Utilize appropriate resources to provide reasonable and free language-assistance services to LEP Persons.
- c. Complaints. OJP personnel should refer any complaints from the public about OJP language-assistance services to the LAC. The LAC shall, in coordination with the Office of the Assistant Attorney General (OAAG), the Office of the General Counsel (OGC), and the Office of Administration, as appropriate, investigate all complaints and make referrals, as appropriate, for action.

9. Best Practices in Providing Language-Assistance Services. When providing reasonable and free language-assistance services to LEP Persons in connection with its federally-conducted programs and activities, OJP personnel should take into account the following considerations:

- a. Determining how to provide oral language-assistance services.
 - 1. Professional interpreters. In some cases, circumstances may call for professional interpreters. This may be particularly appropriate when eligibility for a program or rights to a benefit are at issue. For example, at least three OJP programs --- BJA's PSOB Program, OCR, and OVC's ITVERP --- occasionally contract for professional interpretation services. In addition, BJA has on infrequent occasions provided in-person interpreters for live administrative hearings.
 - 2. Bilingual agency personnel. In many cases, it may be appropriate for OJP to rely on bilingual personnel (e.g., employees, volunteers, fellows, and contractors) who are qualified to effectively provide the needed interpretation. To communicate effectively with the LEP Person under the

circumstance at issue, such personnel should have sufficient proficiency in the target language and knowledge (in both languages) of any specialized vocabulary or phraseology.

3. *Non-Agency personnel/non-professionals.* OJP will generally refrain from using family members, children, and friends of LEP Persons for interpretation, especially for communications involving witnesses or victims, except temporarily, in unforeseen or emergency circumstances, while awaiting professional interpretation or bilingual personnel.

b. *Determining how to provide written language-assistance services.*

1. *Translation of correspondence.* OJP generally is committed to translating (into English) correspondence (whether written or electronic) and documents received from an LEP Person, and translating (into the target language) OJP's responses to those communications, as appropriate, given the considerations above.
2. *Proactive translation of vital documents.* No later than September 30, 2012, the LAC, with the assistance of OJP components, shall endeavor to identify all of OJP's vital documents and ensure, in accordance with the four-factor test above, that they are proactively translated into frequently-encountered languages of LEP groups eligible to be served. Given the prevalence of Spanish-speaking LEP Persons in the United States, most vital documents should be made available in Spanish.

The LAC shall ensure that OJP's Language-Access Plan and Policy, including amendments thereto, are translated into languages that the LAC determines to be frequently-encountered by individuals interacting with OJP's federally-conducted programs and activities, and shall make these translations publicly available (*e.g.*, on OJP's website).

3. *Ad-hoc translation.* Where a vital document must be presented to an LEP Person, and that document has not been translated into that person's primary language, OJP should translate it for the LEP Person, or orally interpret the document for the individual, as appropriate.

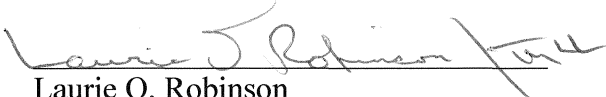
- c. *Means of providing language-assistance services.* OJP should, where applicable, use appropriate means, including new technologies, to facilitate interpretation and translation services and to reduce costs. For example, it may be appropriate to contract for on-demand interpretation or translation services available via telephone or Internet. As indicated above, several OJP components --- BJA for its PSOB Program, OCR, and OVC for ITVERP --- use telephonic interpretation services to a certain extent.

10. Reporting.

- a. Reporting interactions with LEP Persons. No later than September 30, 2012, the LAC will create appropriate mechanisms to collect data regarding interactions with LEP members of the public, beneficiaries, and participants in OJP's federally-conducted programs and activities. The LAC shall ensure that OJP components report to it annually on the number of LEP Persons provided with *ad-hoc* language-assistance services. Such report shall, for each encounter, set out the kind of service provided (if any), the program or activity it was associated with, and the primary language of the LEP Person.
- b. List of qualified bilingual personnel. No later than June 30, 2012, each OJP component that uses qualified bilingual personnel (including employees, volunteers, fellows, and contractors) to provide language-assistance services to LEP Persons shall prepare a list of all such personnel, and shall provide this list to the LAC. For each listed person, each list should include the individual's name, personnel designation (e.g., employee, volunteer, fellow, or contractor), non-English language proficiency, availability, and contact information. No later than September 30, 2012, the LAC will review OJP's lists of identified qualified bilingual personnel, evaluate whether it is appropriate for OJP to develop a system to assess the foreign-language abilities of bilingual personnel, and make recommendations to the Assistant Attorney General, as appropriate.

11. Training. The LAC shall ensure that each OJP component that frequently interacts with LEP Persons provides mandatory training to managers, personnel who frequently communicate with LEP Persons, and personnel who arrange for language support. If feasible, such training should occur every two years, as counted from the effective date of this Order. Generally speaking, the training should cover this Order; the language-access plan; and OJP procedures for identifying language-access needs, providing language-assistance services, working with interpreters, requesting document translations, and tracking the use of language-assistance services.

12. Monitoring and Updating OJP Language-Access Efforts. The LAC may periodically determine whether additional federally-conducted programs and activities should be made accessible for LEP Persons, and (with OAG and OGC concurrence) notify OJP components of their responsibility to provide such access. The LAC should evaluate OJP's language-access plan, including a review of the costs of language-assistance services, and propose changes to OJP components, as appropriate, to refine OJP's language-access plan. Such evaluation should occur every two years, as counted from the effective date of this Order.


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Assistant Attorney General

12-12-11
Date