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POLICY NUMBER: ADMIN 19

POLICY TITLE: LIMITED ENGLISH PROFICIENCY (LEP) SERVICES

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PURPOSE:

It is the purpose of this policy to provide guidance to employees as to their legal obligations (in accordance with Title VI of the Civil Rights Act of 1964) when they have contact with an individual(s) who have limited English language proficiency, because language barriers can sometimes inhibit or even prohibit individuals with limited English language proficiency from gaining meaningful access and participation in Sheriff's Office services and activities.

Sheriff's Office personnel will take all practical steps to provide Language Assistance Services to individuals with limited English when they encounter or have reason to believe they may encounter LEP individuals in the course of their duties, at no cost to the LEP individual.

POLICY:

It is the policy of the Brown County Sheriff's Office to take reasonable steps to ensure timely and meaningful access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 USC§ 2000d).

DEFINITIONS:

*Limited English Proficient (LEP)*- Designates individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English. LEP individuals may be competent in certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific. An individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

*Language Assistance Services* – Services that encompass all oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to and an equal opportunity to participate fully in the services, activities, or other programs administered by the Sheriff's Office.

Effective date: 2/22/19  
Revised date: 2/22/19  
Review date: 2/22/19



*Meaningful Access* - Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not unduly restricted, unnecessarily delayed and is equal to programs or activities provided to English proficient individuals.

*Vital Documents* – Paper or electronic written material that contains information that is critical for accessing Sheriff's office programs or activities, or is required by law.

*Sight Translation* – Oral rendering of written text or a document into spoken language by an interpreter without change in the meaning based on a visual review of the original text or document.

*Direct "In-Language" Communication* – Monolingual communication in a language other than English between a multilingual staff or vendor and an LEP person.

*Authorized Employee Interpreter or Translator* - An employee of the Brown County Sheriff's Office who is bilingual and has successfully completed agency-recognized interpreter and/or translator testing and is authorized to act as such an interpreter and/or translator.

*Qualified Interpreter or Translator* - Any person accepted by the Brown County Sheriff's Office as having the knowledge, skills and ability to perform interpretation or translation services.

*Bilingual* - The ability to communicate in two languages fluently, including the ability to communicate in both English and another language. For purposes of this policy, employees, in order to be identified as bilingual, must initially and periodically demonstrate, through a testing procedure recognized by the Sheriff's Office, the level of skill and competence such that the Sheriff's Office is able to determine the purposes for which an employee's language skills may be used.

*Interpretation* - 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.

*LEP Coordinator* – The Support Services Captain, or his/her designee is responsible for coordinating and implementing all aspects of the Brown County Sheriff's Office LEP services. The LEP Coordinator reports directly to the Sheriff or Chief Deputy.

*Primary Language* - The language in which an individual is most effectively able to communicate.

*Translation* - The replacement of written text from one language (source language) into an equivalent written text (target language).



*Volunteer Translator* – An individual that volunteers to translate or interpret but has not been vetted by the Sheriff's Office for their level of proficiency in a target language. This may include family, friends or acquaintances.

## GENERAL INFORMATION:

### NEEDS ANALYSIS

Since there are potentially hundreds of languages that agency personnel could encounter, the Sheriff's Office will utilize the U.S. Department of Justice (DOJ) LEP Guidelines to assist in determining which measures will provide meaningful access to its services and programs to LEP individuals. It is recognized that law enforcement contacts and circumstances vary considerably. Therefore agency administrators will continually evaluate the validity and balance the following factors:

- The number or proportion of LEP individuals eligible to be served or likely to be encountered by Sheriff's Office personnel, or who may benefit from programs or services within the jurisdiction of the Sheriff's Office.
- The frequency with which LEP individuals are likely to come in contact with Sheriff's Office personnel, programs or services.
- The nature and importance of the contact, program, information or service provided.
- The cost of providing LEP assistance and the resources available. As indicated above, the intent of this analysis is to create a balance that reasonably ensures meaningful access by LEP individuals to critical services, while not imposing undue burdens on the Sheriff's Office or its personnel.

### MOST LIKELY NON-ENGLISH LANGUAGES TO BE ENCOUNTERED IN BROWN COUNTY

- According to 2017 reported data from StatisticalAtlas.Com, which gathers data from the US Census Bureau, the top non English languages spoken in Brown County are Spanish and Hmong. StatisticalAtlas.Com reports that approximately 6,500 Spanish speaking persons living in Brown County do not speak English "very well." StatisticalAtlas.Com reports that approximately 1,100 Hmong speaking persons living in Brown County do not speak English "very well."

### NOTIFICATION OF LANGUAGE ASSISTANCE SERVICES

The Sheriff's Office will provide notice that no cost language assistance services are available. Notices of the services will be posted and displayed in public areas of Sheriff's Office buildings, on the Sheriff's Website, in handouts and on mailings to be sent with vital documents.



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## IDENTIFICATION OF LEP INDIVIDUAL'S LANGUAGE

The Sheriff's Office will utilize reasonably available tools, such as language identification cards (ISPEAK cards), when attempting to determine an LEP individual's primary language in an effort to avoid mistakes when identifying a language. The Sheriff's office will maintain these tools in areas of public access and available in the document resource area (Forms link) of the Records Management System.

BCSO personnel may identify whether an individual is LEP by but not limited to the following:

- Self-identification by LEP person (if the individual is able to communicate the language the he or she speaks).
- Asking open-ended questions requiring a narrative response. When an individual is unable to provide a fluent narrative response in English, he or she should be considered LEP.
- The use of language identification cards.
- Verifying the language spoken with the assistance of an authorized employee interpreter or with the assistance of a telephone interpreter.

Other LEP indicators include the individual speaks in incomplete or fragmented sentences, uses words that suggest a request for language assistance or switches from English into another language.

## PROVIDING AND REFUSAL OF ASSISTANCE

The Sheriff's Office will make reasonable efforts to provide assistance to LEP individuals and document any services provided. If a LEP individual voluntarily chooses to provide his/her own interpreter the agency will document the individuals' choice.

## PRINTED FORMS AND DOCUMENTS

The LEP Coordinator will determine which Vital Documents will be translated in which languages based on importance and frequency used. The LEP Coordinator will make these documents available to agency personnel and other individuals as necessary. Such written materials may include but are not limited to: Complaint, consent, release or waiver forms; claim or application forms; conditions of settlement or resolution agreements; letters or notices pertaining to changes in services or programs; time sensitive notices, including notices of hearings/litigation, court appearances or other investigative related deadlines; forms related to individual rights; jail inmate handbooks; jail PREA information/forms, and/or notices of free language assistance services for LEP individuals.

## AUDIO RECORDINGS

If the need arises the Sheriff's Office may develop audio recordings of information for broadcast to LEP individuals in a language most likely to be understood by them.



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### TELEPHONE INTERPRETER SERVICES

The LEP Coordinator will maintain a list of qualified telephonic interpreter services and make it available to all agency personnel. These services shall be available to assist agency personnel in communicating with LEP individuals.

### TRANSLATION SERVICES

The LEP Coordinator will maintain a list of qualified translator services and make it available to agency personnel in order to assist in the understanding of written text.

### VOLUNTEER TRANSLATORS

Officers have the discretion to use volunteers for communication assistance. Just as with all interpreters, volunteers used to interpret or translate should be competent in the skill of interpreting and knowledgeable about applicable confidentiality and impartiality rules. Officers should take special care to ensure that family, legal guardians, caretakers, or other volunteers are appropriate in light of the circumstances and subject matter at hand. Issues of accuracy, integrity, confidentiality, privacy or conflict of interest arise and officers must evaluate the associated risks before moving forward with a volunteer interpreter or translator. Identification of volunteers used shall be documented in incidents which involve an arrest, a traffic crash or incident report, as well as any incident the employee believes it necessary. Reliance on volunteer interpreters should be used with caution.

### LEP COORDINATOR

It shall be the duty of the LEP Coordinator to:

- Review and maintain the policies and procedures of the Sheriff's Office.
- Review and coordinate the creation of non-English Vital Documents used by the Sheriff's Office if needed
- Assure vendors providing interpretation and translation services have certification listing their proficiency as recognized through American Council on the Teaching of Foreign Languages (ACTFL) or Interagency Language Roundtable (ILR) appropriate to services provided.
- Assure that Sheriff's Office employees providing interpretation and translation services have certification listing their proficiency as recognized through the American Council on the Teaching of Foreign Languages (ACTFL) or Interagency Language Roundtable (ILR) appropriate to services they provide.
- Occasionally review the effectiveness of the Sheriff's Office Language Assistance Services. The review may be done by analysis of current or historical data, surveys of staff and customers, solicitation of feedback from community groups and analysis of changing community demographics.



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## PROCEDURES:

### FIELD CONTACTS AND ENFORCEMENT

Field contacts and enforcement activities may include vehicle and pedestrian stops, legal process service, crowd/traffic control and responding to complaints and various calls for service. The circumstances of these contacts may vary widely. Sheriff's Office personnel must assess each situation to determine the need and availability for language services and use methods outlined in this policy to provide appropriate language assistance.

Sheriff's Office personnel should communicate the reason for a contact, the need for information and the meaning or consequences of official action taken with an LEP individual.

### INVESTIGATIVE INTERVIEWS AND CUSTODIAL INTERROGATIONS

Where an interview or interrogation may reveal information that could be used as the basis for arrest or prosecution of an LEP individual a Qualified or Authorized Employee interpreter or translator should be used. When interrogating suspects, officers must be sure that an individual understands the Miranda Warning. In the case of an LEP individual an interpreter should be used and the LEP individual should be provided a Miranda warning form in their native language when available. The person selected as an interpreter or translator shall not provide counseling, legal advice, or perform any other role that could adversely affect the accuracy and precise interpretation or translation. The person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court. Identification and contact information for the interpreter shall be documented so that the person can be subpoenaed for trial if necessary.

To ensure that translations during criminal investigations are documented accurately and are admissible as evidence, audio and visual recordings of interrogations should be made at all times and shall be made when required by law.

### EXIGENT CIRCUMSTANCES

Sheriff's Office personnel are expected to follow the general procedures outlined in this policy. However, exigent circumstances may require some deviations. Exigent circumstances means circumstances requiring action before language assistance can reasonably be obtained, in order to protect life, prevent serious injury, or protect substantial property interests; to apprehend or identify a fleeing suspect; or to prevent the hiding, destruction, or alteration of sensitive evidence. In such situations, a Patrol Supervisor or Officer in Charge may authorize BCSO employees to use the most reliable, informal interpreter available, such as a family member, friend, or bystander, to obtain immediate pertinent information, after taking into account the risk of inaccurate information, bias, and conflict of interest in relying on an informal interpreter. Once the exigency has passed or authorized language assistance becomes available, all personnel are expected to revert to the general procedures outlined in



this policy. In situations in which the exigency involves a Domestic Violence incident, officers will be especially mindful in the use of family members, partners, or acquaintances as informal interpreters as the risk of inaccurate information, bias and conflicts of interest increases; qualified language assistance services should be used as soon as possible. The information obtained through an informal interpreter must be confirmed as accurate after the exigency or threat ends.

#### MINOR CHILDREN

Absent exigent circumstances, employees may not utilize minor children as informal interpreters, nor may supervisors authorize them to do so during a criminal investigation. The child may be only be used as an informal interpreter until (1) qualified language assistance services are obtained in-person or via phone; or (2) the exigency subsides, whichever comes first. The employee must exercise caution in relying upon the accuracy of the child's communication in light of the circumstances, including the maturity, lack of training, and uncertain dual language ability of the child.

#### SOCIAL COMMUNICATIONS

Sheriff's Office personnel are not required to use language assistance in social communications with the LEP individuals. Social communications include greetings and other limited communication while on patrol or in community settings that do not involve responding to calls, the exercise of law enforcement authority, potential criminal activity, or any other substantive communication.

#### JAIL BOOKING

If necessary a Qualified or Authorized Employee interpreter or translator shall be used to gather information from the LEP individual throughout the jail booking process or any other situation in which an LEP individual is under the control of Sheriff's Office personnel. Medical screening questions are commonly used to elicit information on an individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, symptoms of withdrawal from certain medications or the need to segregate the arrestee from other prisoners. Sheriff's Office Jail Staff shall make every reasonable effort to provide effective language services in booking situations.

#### COMPLAINTS

The Sheriff's Office shall ensure that LEP persons have reasonable access to language services for the purpose of filing a complaint regarding Sheriff's Office services or actions. The Sheriff's Office shall utilize a Sheriff's Office Qualified or Authorized Employee interpreter or translator, if available, when conducting any interviews of LEP complaints. The Sheriff's Office shall make accessible interpretation services and provide certain translated forms and documents, which explain and instruct LEP individuals on the complaint process. The LEP Coordinator should periodically review and update all translated forms given to LEP individuals regarding the complaint process.



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## COMMUNITY OUTREACH

Community outreach programs and other such services offered by the Sheriff's Office have become increasingly recognized as important to the ultimate success of law enforcement duties. The Sheriff's Office will continue to work with community groups, local businesses and neighborhoods to provide equal access to programs and services to LEP individuals and groups.

## DOCUMENTATION OF SERVICE

Whenever any member of the Sheriff's Office is required to complete a report that includes LEP services, such services should be noted in the related report. Members should document the type of interpretation services utilized, the language of the LEP person and whether the individual elected to use services provided by the Sheriff's Office or some other identified source.

## AGENCY TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Sheriff's Office will provide training on this policy and related procedures, including how to access Sheriff's Office authorized telephonic and in person interpreters and other available resources. Periodic in-service training will be completed for all employees.

## AUTHORIZED EMPLOYEE INTERPRETER/TRANSLATOR SELECTION/TESTING, QUALIFICATIONS AND TRAINING:

### SELECTION/TESTING

Sheriff's Office personnel that possess skills in a language other than English (bilingual) at a skill level that allows for even basic communication should be tested and their skill level identified.

- Employees may volunteer for the duty of an Authorized Employee Interpreter or Translator based on their tested skill level and agency needs.
- New employees that have designated a bilingual skill during the hiring process shall be tested within the employees first three months of employment.
- Those selected for the position of an Authorized Employee Interpreter or Translator shall serve at the pleasure of the Sheriff under the supervision of the LEP Coordinator.
- Employees identified as bilingual will have their language skills assessed by a language testing agency selected by the LEP Coordinator, that adheres to the standards of the American Council on the Teaching of Foreign Languages (ACTFL) or Interagency Language Roundtable (ILR) . Upon completion, the Sheriff's Office shall receive and review the results of the assessment.
  - An employee's level of participation in interpretation/translation may be limited by the level of proficiency determined by the assessment testing.



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- This testing will be periodically repeated to determine the employee's ability to communicate information accurately in both English and in the target language.
  - An employee's level of participation in interpretation/translation duties may be enhanced or limited by the level of competency determined by the assessment testing compared to previous testing.

## QUALIFICATIONS

Any employee designated by the Sheriff's Office to act as an Authorized Employee Interpreter and/or Translator must:

- Maintain competence in both English and the involved non-English language;
- Have an understanding of the functions of an interpreter and/or translator that allows for correct and effective translation / interpretation;
- Refrain from accepting assignments where he/she has a personal interest in the agency case or investigation involving the LEP individual;
- Be willing to account for the accuracy and trustworthiness of the interpretation or translation in a court proceeding.
- Have the ability to understand and adhere to the interpreter role without deviating into other roles such as counselor or legal adviser. The interpreter must parrot parties involved in the discussion and not engage in third party Direct "In-Language" Communication conversations outside of the understanding of the Sheriff's Office representative.
- Be knowledgeable of the ethical issues involved when acting as a language conduit.

## TRAINING

To ensure that employees who may have contact with LEP individuals are properly trained, the Sheriff's Office will provide training if possible on this policy and related procedures, including how to access Sheriff's office authorized telephonic and in person interpreters. As such, all new employees will receive this policy and related training materials as part of their Field Training Officer program.

All personnel selected as Authorized Employee Interpreter or Translator shall complete periodic training:

- To understand and adhere to the interpreter and/or translator role without deviating into other roles, such as counselor or legal adviser.
- The training will include specialized terminology and ethical considerations.
- The LEP Coordinator shall be responsible for coordinating periodic training with the Training Section.



## OTHER SOURCES OF QUALIFIED INTERPRETERS / TRANSLATORS

The Sheriff's Office may utilize other Qualified Interpreters or Translators.

Other sources may include:

- Vendors under contract with the Sheriff's Office to provide Qualified Interpreter or Translator services including but not limited to:
  - In person interpretation or translation services
  - Telephonic (or through other remote communication means ) interpretation services
  - Translation of documents sent to the vendor through electronic or physical means
- Contracted (but not under Sheriff's contract) in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters / translators from other agencies with whom the Sheriff's Office has a resource-sharing or other arrangement that they will interpret according to Sheriff's Office guidelines.

When utilizing these other sources the interpreter or translator must:

- Understand and adhere to the interpreter role without deviating into other roles such as counselor or legal adviser. The interpreter must parrot parties involved in the discussion and not engage in third party Direct "In-Language" Communication conversations outside of the understanding of the department or its representative.
- Be able to provide documentation that the interpreters and translators have certification listing their proficiency as recognized through the American Council on the Teaching of Foreign Languages (ACTFL) or Interagency Language Roundtable (ILR) for the services they provide.
  - Other than for vendors with a contract with the Sheriff's Office it will be the Deputy authorizing use of the service to obtain this documentation and include it with the case file.