

## Migrant Legal Aid

### Issue Brief: Expanding Access to LEP Victims and Witnesses

**Question for Discussion:** Do people who are Limited English Proficient (LEP), and are also victims or witnesses of crimes, have equal protection in all stages of the investigatory and prosecutorial processes?

**Short Answer:** No. LEP People face practical and procedural hurdles in cooperating and communicating with prosecutors and law enforcement.

**Longer Answer:**

Graciela is a Hispanic woman who understands very little, if any, English. After she was attacked by the father of her unborn child, the police arrested him and charged him with Assault and Battery. Shortly afterward, she received a notice asking her to meet with detectives at a certain time and place. However, this notice was in English... and by the time she found someone to translate it, it was too late. Fortunately, her assailant was tried and convicted, but she had no option to cooperate with the process. It is scary to think about how this may have turned out differently if the conviction relied on her testimony.

The number of Limited English Proficiency (LEP) persons in the United States has risen recently, to the point where they represent 9% of the population.<sup>1</sup> This growing trend population is going to present challenges to services provided by local and state governments if those governments want to help all victims of crime equally.

Recent changes in Michigan Law has expanded access to those with Limited English Proficiency (LEP) to the Michigan court system.<sup>2</sup> While this is a huge step forward, it is limited to in court proceedings (such as trials and hearings). As those in court proceedings rely on meaningful out of court conduct, we believe that processes that accommodate LEP victims will aid not only the victims themselves, but also the prosecutors and investigators who need to work with them during the development of a case.

**Proposed solution:**

Create a procedure where:

- 1) LEP individuals can be identified immediately at law enforcement level- first contact
- 2) Law enforcement referral to crime victim services includes victim-witness's LEP and primary language
- 3) Investigators and prosecutors can include a data field in the software program to flag LEP status
- 4) LEP victim-witness has resources to communicate with prosecutors and investigators
- 5) Standardized communication, such as Victim Witness mailings, can be generated in the recipient's native language
- 6) Data fields are added for victim-witness primary language
- 7) Investigators and prosecutors are trained in strategies to engage LEP victims and witnesses
- 8) Standard communication is available in various languages: cover letter, victim questionnaire, restitution requests (similar to forms used to request interpreters per MCR 1.111)
- 9) Notices are sent to target populations about translation resources available to victims and witnesses

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<sup>1</sup> See <http://www.migrationinformation.org/integration/LEPdatabrief.pdf>

<sup>2</sup> See MCR 1.111