

## Limited English Proficiency Services

### 368.1 PURPOSE AND SCOPE

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from gaining meaningful access to, or an understanding of important rights, obligations, and services. It is therefore the policy of this Department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 United States Code 2000d and the Omnibus Crime Control and Safe Streets Act of 1968).

#### 368.1.1 DEFINITIONS

The following definitions relate to terms used within this policy:

**Authorized interpreter:** Any Member who is bilingual and has successfully completed Department-prescribed interpreter training and is authorized to act as an interpreter or translator.

**Bilingual:** The ability to communicate in two languages fluently, including the ability to communicate technical and law enforcement terminology. Bilingual includes a variety of skill levels. For example, some bilingual individuals may be fluent enough to engage in direct communications in a non-English language but insufficiently fluent to interpret or translate from one language into another. For example, a bilingual individual, depending on his/her skill level, could be utilized to communicate fluently in a non-English language but not to interpret between two languages if he/she does not possess the specialized skills necessary to interpret between two languages effectively. In order to be utilized to interpret or translate from one language into another, an individual must possess the skill, training and demonstrated competence to do so. For purposes of this policy, Members, in order to be identified as bilingual, must initially and periodically demonstrate, through a procedure to be established by the Department, their level of skill and competence such that the Department is able to determine the purposes for which an Member'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.

**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.

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

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### **368.2 POLICY**

Since there are potentially hundreds of languages Department Members could encounter, the Department shall utilize the four-factor analysis outlined in the Department of Justice LEP *Guidance to Federal Financial Assistance Recipients* available at the DOJ [website](#) in determining which measures will provide reasonable and meaningful access to various rights, obligations, services, and programs to everyone. It is recognized that law enforcement contacts and circumstances shall vary considerably. This analysis therefore, must remain flexible and requires an ongoing balance of the following four factors:

1. The number or proportion of LEP individuals eligible to be served or likely to be encountered by Department personnel or who may benefit from programs or services within the Department's jurisdiction or a particular geographic area.
2. The frequency with which LEP individuals are likely to come in contact with Department personnel, programs, or services.
3. The nature and importance of the contact, program, information, or service provided.
4. The cost of providing LEP assistance and the resources available.

As indicated above, the intent of this analysis is to provide a balance that reasonably ensures meaningful access by LEP individuals to critical services while not imposing undue burdens on the Department its Members.

While this Department shall not discriminate against or deny any individual access to services, rights, or programs based upon national origin or any other protected interest or right, the above analysis shall be utilized to determine the availability and level of assistance provided to any LEP individual or group.

#### **368.2.1 IDENTIFICATION OF LEP INDIVIDUAL'S LANGUAGE**

The Department shall utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language in an effort to avoid misidentifying that language.

### **368.3 LEP COORDINATOR**

Depending on the balance of the above four factors, this Department shall make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services, where available. LEP individuals may elect to accept interpreter services offered by the Department at no cost or choose to provide their own interpreter services at their own expense. Department Members should document in any related report whether the LEP individual elected to use interpreter services provided by the Department or some other source. Department-provided interpreter services may include, but are not limited to, the assistance methods described in this section.

#### **368.3.1 BILINGUAL STAFF**

Members utilized for LEP services need not be certified as interpreters, but must have demonstrated, through established Department procedures, a level of competence to ascertain

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whether the Member's language skills are best suited to monolingual communications, interpretation, translation, or all or none of these functions. All Members used for communication with LEP individuals must demonstrate knowledge of the ethical issues involved when functioning as a language conduit. In addition, Members who serve as interpreters and/or translators must have demonstrated competence in both English and the non-English language involved and knowledge of the functions of an interpreter including but not limited to the ethics requirements of interpretation. When bilingual Members of this Department are not available, members from other city departments who have the requisite training may be requested.

#### 368.3.2 WRITTEN FORMS AND GUIDELINES

This Department shall determine the most frequently used and critical forms and guidelines and translate these documents into the languages most likely to be requested. The Department shall arrange to make these translated forms available to Departmental Members and other appropriate individuals.

#### 368.3.3 AUDIO RECORDINGS

From time to time, the Department may develop audio recordings of important information needed by LEP individuals for broadcast in a language most likely to be understood by involved LEP individuals.

#### 368.3.4 TELEPHONE INTERPRETER SERVICES

The Department Commander and Emergency Communications Bureau Captain will maintain a list of qualified interpreter services which, upon approval of a supervisor can be contacted to assist LEP individuals. Such services shall be available to, among others, Department personnel who utilize official cellular telephones.

#### 368.3.5 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF INTERPRETATION

Where competent bilingual Departmental Members or other County-certified staff are unavailable to assist, responsible members of the community who have demonstrated competence in either monolingual (direct) communication and/or in interpretation and translation (as noted in above) may be called upon to assist in communication efforts. Sources for these individuals may include neighboring police departments, university languages and linguistics departments, local businesses, banks, churches, neighborhood leaders, and school officials. Department Members should ensure that community members are able to provide unbiased assistance. The nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect).

Except for exigent or very informal and non-confrontational circumstances, the use of an LEP individual's bilingual friends or family members, particularly children, are generally not recommended and Department Members shall make case-by-case determinations on the appropriateness of using such individuals (for further guidance see: Section V(3) of the DOJ Final Guidance available at the DOJ [website](#)).

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### **368.4 FOUR-FACTOR ANALYSIS**

While all law enforcement contacts, services and individual rights are important, this Department shall utilize the four-factor analysis to prioritize language services so that they may be targeted where they are most needed.

Whenever any Member of this Department is required to complete a report or when other documentation and interpretation or translation services are provided to any involved LEP individual, such services should be noted in the related report.

#### **368.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this Department has designated its 9-1-1 lines as its top priority for language services. Department Members shall make every reasonable effort to promptly accommodate such LEP individuals utilizing 9-1-1 lines through any or all of the above resources.

While 9-1-1 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate LEP individuals seeking more routine access to services and information from this Department by utilizing all the methods listed in § 368.3 above.

#### **368.4.2 EMERGENCY CALLS TO 9-1-1**

When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual the call-taker should quickly determine whether or not sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed and the language is known, the call-taker should immediately transfer the LEP caller to an available authorized interpreter to handle the call.

If an appropriate authorized interpreter is not available, the call-taker shall promptly contact the contracted telephonic interpretation service directly for assistance in completing the call. Dispatchers shall make every reasonable effort to dispatch a bilingual officer to the assignment, if available.

The Department shall take reasonable steps and shall work with the Professional Standards Division to hire and develop in-house language capacity in Emergency Communications Bureau by hiring qualified personnel with specific language skills.

#### **368.4.3 FIELD ENFORCEMENT AND INVESTIGATIONS**

Field enforcement shall generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control, and other routine field contacts which may involve LEP individuals. The scope and nature of these activities and contacts shall inevitably vary. Department Members must assess each situation to determine the need and availability for translation services to all involved LEP individuals and utilize the methods outlined in § 368.3 to provide appropriate language assistance.

Although not every situation can be addressed in this policy, it is important that Department Members are able to effectively communicate the reason for a contact, the need for information,

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and the meaning or consequences of any enforcement action taken with an LEP individual. It would, for example, be meaningless to request consent to search if the person requesting is unable to effectively communicate with an LEP individual.

#### 368.4.4 INVESTIGATIVE INTERVIEWS

In any situation where the translation of an interview may contain information that might be used in a criminal trial, it is important to take certain steps to improve the chances of admissibility. This includes interviews conducted during an investigation with victims, witnesses, and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

Any person selected as an interpreter and/or translator must have demonstrated competence in both English and the non-English language involved and knowledge of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the case. The person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court.

#### 368.4.5 CUSTODIAL INTERROGATIONS AND BOOKINGS

In an effort to ensure the rights of LEP individuals are protected during arrest and custodial interrogation, this Department places a high priority on providing competent interpretation during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, Department Members providing interpretation services or translated forms in these situations shall have demonstrated competence in interpretation/translation and make every reasonable effort to accurately interpret/translate all communications with LEP individuals.

In order to ensure that translations during criminal investigations are documented accurately and admissible as evidence, audio recordings of interrogations, victim interviews, and witness interviews should be used whenever reasonably possible.

Members providing interpretation or translation services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is within the control of Department Members. Medical screening questions are commonly used to elicit information on an individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners, therefore it is important for Members of this Department to make every reasonable effort to provide effective language services in these situations.

#### 368.4.6 COMPLAINTS

The Department shall ensure access to LEP persons who wish to file a complaint regarding the discharge of Department duties. The Department may do so by providing interpretation assistance

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or translated forms to such individuals. If the Department responds to complaints filed by LEP individuals, the Department shall attempt to communicate its response in an accessible manner.

### **368.4.7 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this Department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this Department shall continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to LEP individuals and groups.

### **368.5 TYPES OF LEP ASSISTANCE AVAILABLE**

In an effort to ensure that all Members in public contact positions (or having contact with those in custody) are properly trained, the Department shall provide periodic training to Members about Departmental LEP policies and procedure, including how to access Department-authorized, telephonic, and in-person interpreters and other available resources. LEP training shall be provided for new Members and refresher training shall be provided at least once every two years thereafter.

### **368.6 WRITTEN FORMS AND GUIDELINES**

1. Department Members who are called upon to interpret, translate, or provide other language assistance shall be trained annually on language skills competency including specialized terminology and ethical considerations.
2. Assessment: The Department Member identified as bilingual, who are willing to act as authorized interpreters, shall have their language skills assessed by a professional interpreter using a structured assessment tool established by the Commander. Members found proficient in interpreting into and from the target language shall be placed conditionally on the authorized interpreters list.
3. Training: All Members conditionally placed on the authorized interpreter list must successfully complete the prescribed interpreter training within one year. After successful completion of interpreter training, the individual shall be unconditionally placed on the authorized interpreter list. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language; demonstrate knowledge in both languages of any specialized terms or phraseology and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal advisor.
4. Refresher course for authorized interpreters: Members who have been unconditionally placed on the authorized interpreter list must receive refresher training annually or they shall be removed from the authorized interpreter list. The Training Division shall be responsible for coordinating the annual refresher training and shall maintain a record of training that the interpreters have received.

The LEP Coordinator shall ensure that the authorized interpreters list is kept current and a copy is forwarded to Emergency Communications Bureau.

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### **368.7 AUDIO RECORDINGS**

The following materials shall be made available to Members to assist in providing access and service to LEP individuals:

1. A list of Departmental bilingual Members, languages spoken, and contact and shift information
2. A list of Department-certified interpretation services, bilingual interpreters, languages spoken, and contact and availability information
3. The telephone number and access code of telephonic interpretation services
4. Language identification cards
5. Translated *Miranda* warning cards and other frequently used documents
6. Audio recordings/warnings that are developed in non-English languages

### **368.8 QUALIFIED BILINGUAL MEMBERS**

#### **368.8.1 LEP COORDINATOR**

The Sheriff shall appoint an LEP Coordinator who is responsible for coordinating and implementing all aspects of the Department LEP services to LEP individuals.

The LEP Coordinator shall assess demographic data, review contracted language access services utilization data, and consult with community-based organizations annually in order to determine if there are additional languages into which vital documents should be translated.

The LEP Coordinator shall also be responsible for annually reviewing all new documents issued by the Department to assess whether they should be considered vital documents and be translated.