

Language Access Services for Limited English Proficient (LEP) Persons

5.20.01 PURPOSE

This order establishes language access procedures, consistent with federal, state, and local law, for San Francisco Police Department (SFPD) members to follow when encountering a Limited English Proficient (LEP) person. It also defines the importance of effective and accurate communication between SFPD members and the communities they serve. Language barriers can sometimes inhibit or even prohibit LEP individuals from accessing and/or understanding important rights, obligations, and services, or from communicating accurately and efficiently in different situations. Hampered communication with LEP victims, witnesses, suspects, and community members can jeopardize safety and create evidentiary and investigative challenges.

5.20.02 POLICY

SFPD members shall take every reasonable step to ensure timely and accurate communication and access to all individuals regardless of national origin or primary language. When performing law enforcement functions, members shall provide free language assistance to LEP individuals they encounter or whenever an LEP person requests it. The Department's policy is to inform the public that language assistance services are available free of charge to LEP persons, and that the Department will provide these services as part of the Department's community policing and enforcement efforts.

5.20.03 DEFINITIONS

- A. **PRIMARY LANGUAGE:** The language in which an individual is most effectively able to communicate.
- B. **LIMITED ENGLISH PROFICIENT (LEP) PERSON:** An individual who does not speak, read, understand, or communicate English, is otherwise unable to communicate effectively in English because English is not their primary language or prefers to conduct the interaction in their native language.
- C. **LANGUAGE ACCESS SERVICES:** "Language Access Services" shall mean translation and interpretation of oral or spoken information that is accessible and enables communication with LEP persons.
- D. **INTERPRETATION:** A live service communicating information from one language (source language) to another spoken or sign language (target language), while retaining the same meaning. This service can be delivered through oral, video, remote, or telephonic mediums, and can be performed in either consecutive or simultaneous modes.
- E. **TRANSLATION:** Any written communication of information from one language (source language) into another language (target language) while retaining the same meaning.

- F. **QUALIFIED BILINGUAL MEMBER:** For purposes of this order, SFPD members who identify themselves as “bilingual” must demonstrate, through a formal procedure which has been established by the Department of Human Resources (DHR), competency to communicate in the source language by demonstrating the ability to listen to a communication in one language (source language) and orally convert it to another language (target language) while retaining the same meaning. The Department will provide all members with training in interpreting techniques, roles, and ethics so that they may understand and follow confidentiality and impartiality rules for interpreters as defined by DHR.

- G. **QUALIFIED CIVILIAN INTERPRETER:** A Qualified Civilian Interpreter is an individual who has been certified by the city or other designated qualifying agency. A Qualified Civilian Interpreter may be an employee of another city department, or an outside agency contracted to provide language interpretation services to the Department. The Department will contract with outside agencies to provide in person as well as telephonic interpretation services.

- H. **EXIGENT CIRCUMSTANCES:** Exigent circumstances are defined as situations that require deviation from procedures, such as a threat to life, safety, or property, a fleeing suspect, or the potential loss or destruction of evidence. (e.g., physical loss of property, witness, or victim.)

5.20.04 PROCEDURES

SFPD members are to follow these procedures in all encounters absent exigent circumstances; however, exigent circumstances may require some deviation. In such situations, SFPD members shall use the most reliable, temporary interpreter available. Once the exigency has passed, members are expected to revert to the procedures set forth in this general order.

- A. **GENERAL.** The following procedures shall apply to members who encounter LEP individuals while performing law enforcement functions.

- B. **USE THE SERVICES OF BILINGUAL MEMBERS**
 - 1. The Staff Services Unit shall maintain a listing of all SFPD Qualified Bilingual Members and Qualified Civilian Interpreters. This list will be provided to and kept with the Language Access Liaison Officer and the Staff Services Unit.

 - 2. If SFPD Bilingual Members are unavailable, SFPD members may also utilize a Qualified Civilian Interpreter. Contract and professional interpretation associations, or other professional interpreter services include interpretation services offering in-person interpretation, as well as those offering telephonic interpretation. SFPD officers shall be provided with the appropriate contact information and any department account code information to access such services.

- C. **ORDER OF PREFERENCE.** Members shall provide oral interpretation services to LEP

persons they encounter in the following order of preference unless deviations are required to respond to exigent circumstances.

1. **Direct Communication by Qualified Bilingual Member:** The preferred method of providing services to LEP persons is with a Qualified Bilingual Member.
2. **Use of Qualified Civilian Interpreter:** When Qualified Bilingual Members are unavailable, members shall use a Qualified Civilian Interpreter or a professional interpreter to provide in-person interpretation services. The Language Access Liaison Officer coordinates the interpretation or translation services with a Qualified Civilian Interpreter during business hours. If a Qualified Civilian Interpreter is needed outside of business hours, the Department of Operations Center will contact the Language Access Liaison Officer to arrange services.
3. **Telephone Interpreter:** When qualified interpreters are not available to provide service in person, SFPD members may utilize the professional language service provider (Audio or Remote Video Interpretation Services) or Qualified Civilian Interpreter to provide interpretation services by telephone.
4. Officers should take reasonable steps to ensure that the qualified interpreter does not know any of the parties.

D. RESTRICTIONS.

1. SFPD members should not use family members, neighbors, friends, volunteers, bystanders, or children to interpret for a LEP person unless exigent circumstances exist and a more reliable interpreter is not available, especially for communications involving witnesses, victim, and potential suspects, or in investigations, collection of evidence, negotiations, or other sensitive situations.
 2. If an exigent circumstance requires a member to use family members, neighbors, friends, volunteers, bystanders or children for initial language assistance, the member shall seek the assistance of a Qualified Bilingual Member, Qualified Civilian Interpreter, or other professional interpreter to confirm or supplement the initial translation or interpretation as soon as practical.
- E. **GENERAL INTERVIEWS:** When conducting general interviews, members should seek the assistance of a Qualified Bilingual Member, Qualified Civilian Interpreter, or other professional interpreter, or the professional language service provider (Audio or Remote Video Interpretation Services) whenever the member encounters an LEP person who requests an interpreter or is unable to communicate with or is having trouble communicating with the member.
- F. **FORMAL INTERVIEW:** The accuracy of victim and witness statements is a priority in criminal investigations. Thus, to ensure effective communication and accuracy, either a Qualified Bilingual Member or Qualified Civilian Interpreter shall be used when taking

formal statements or conducting any formal interview of a LEP witness and/or victim. Written forms shall be provided to the witness and/or victim in his or her primary language when available. In the case of forms that have not been translated into the LEP person's primary language and in the case of illiteracy, forms shall be read to the witness and/or victim in his or her primary language by a Qualified Bilingual Member, or Qualified Civilian Interpreter.

G. INTERROGATIONS

1. The Miranda admonition, and all other written forms shall be provided to the suspect in his or her primary language when available. In the case of forms that have not been translated into the LEP person's primary language and in the case of illiteracy, forms shall be read to the suspect, by the Qualified Bilingual Member or Qualified Civilian Interpreter, in his or her primary language.

H. PROCEDURES FOR SPECIFIC SCENARIOS

1. Custodial Interrogations and Crime Victim Interviews:
 - a. Formal crime victim interviews and custodial interrogations of suspects potentially involve statements with evidentiary value, upon which an individual may be impeached in court. As such, accuracy is a priority. Moreover, a failure to protect the rights of LEP individuals during arrests and custodial interrogations presents risks to the integrity of the process. SFPD members must recognize that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. A Qualified Bilingual Member or Qualified Civilian Interpreter shall be used for any custodial interrogation or taking of a formal statement where the suspect or witness' legal rights could be adversely impacted. The preferred method for interviewing a LEP individual is direct communication. When a Qualified Bilingual Member is not available to directly communicate with a LEP individual, a Qualified Civilian Interpreter shall be provided. The following procedures shall be utilized in custodial interrogations:
 - 1) Contact a Qualified Bilingual Member or Qualified Civilian Interpreter to appear in person, unless the LEP person consents to the use of an interpreter via telephone or other exigent circumstance(s) exist. SFPD members shall have access to contract interpreters and/or a directory of professional interpreter associations and services. All LEP custodial interrogations shall be taped unless exigent circumstance(s) exist. If an SFPD member is used as a Qualified Bilingual Member, their duties are primarily to interpret, unless exigent circumstances arise.
 - 2) Advice of Miranda admonition and all other written forms and notices shall be provided to both the suspect and witness in his or her primary language when available. In the case of forms that have not been translated into the LEP person's primary language and in the case of illiteracy, forms shall be read to the individual, by the Qualified Bilingual Member or Qualified Civilian Interpreter, in his or her primary

language.

2. Field Contacts, Enforcement, and Investigations:

- a. Field contacts with LEP people could generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts.

3. Notification of Interpretation Services to LEP Individuals: At the main public entry or lobby of each SFPD Facility, as defined in Administrative Code Section 91.2 (e), signs shall be posted stating that interpreters are available free of charge to LEP individuals.

I. INCIDENT REPORTS. Whenever an incident report is prepared regarding an incident involving an LEP person, the incident report shall identify the primary language spoken by the LEP individual, the person who provided the interpretation (Qualified Bilingual Member's star number or Qualified Civilian Interpreter's identification number), and the manner interpretation services were provided. All this information shall be indicated in the incident report.

J. TRANSLATED DOCUMENTS. SFPD shall maintain written forms and guidelines for assistance to LEP individuals.

1. Transcribing Tapes and Other Evidence into English: The Department shall translate tapes, documents, evidence, or documents submitted by LEP individual(s) into English when such evidence is necessary to continue the investigation and/or prosecution of a criminal case or a Departmental administrative investigation.

2. If there is a form or document that needs to be translated, the person requesting the document can send it to the Language Access Liaison Officer via email. If it is approved to be translated, the Language Access Liaison will send the form to the Department's vendor to process. The Language Access Liaison Officer will send the final translated document back to the person who requested it.

K. AIRPORT BUREAU. Airport Bureau members, and other members of the San Francisco Police Department providing services at the Airport, will adhere to department policies. Airport Bureau members and other members of the San Francisco Police Department providing services at the Airport will contact Airport Communications when language assistance is required at the San Francisco International Airport.

L. COORDINATION WITH DEPARTMENT OF EMERGENCY MANAGEMENT. On a monthly basis the Department shall provide the Department of Emergency Management (DEM) with a copy of the SFPD's Qualified Bilingual Members List.

M. TRAINING.

1. In an effort to ensure all SFPD members are properly trained in these guidelines, the SFPD will provide periodic training in member awareness of the LEP policies, how to

access both in-person and telephone interpreters, and how to work with interpreters. The Department shall conduct such training for new recruits, at in-service training and at Roll Call for SFPD members at least every two (2) years. Initial training shall be conducted within 180 days of the Police Commission's adoption of this General Order.

N. RECORDING AND TRACKING OF LANGUAGE ACCESS EFFORTS: The Department shall designate a Language Access Liaison officer. This officer shall prepare an annual report on LEP matters, through the chain of command, to the Chief of Police.

O. LANGUAGE ACCESS LIAISON OFFICER'S DUTIES. The Language Access Liaison officer's duties include but are not limited to:

1. Monitoring compliance with the General Order;
2. Coordinating language access training at the Academy;
3. Coordinating interpreter training for qualified bilingual members and employees;
4. Coordinating telephonic and third-party interpreter services as required by this order;
5. Working with the Department of Emergency Management to establish a system that immediately identifies LEP calls and promptly dispatches language assistance, preferably with a bilingual officer speaking the needed language;
6. Coordinating as needed meetings with the Department of Police Accountability and community groups to discuss and resolve language access complaints;
7. Overseeing the LEP data collection as detailed below; (this will require implementation of RMS); and
8. Reporting:
 - a. Gathering data pursuant to the provisions listed in San Francisco Administrative Code SEC 91, specifically SEC 91.11 which incorporates the provisions listed in SEC 91.9. The Language Access Liaison shall send the report through their chain of command prior to submission.
 - b. Gathering and preparing an annual report to the Police Commission, including data concerning:
 - 1) the number of calls for service, contacts and investigations involving LEP persons where an incident report was required;
 - 2) the manner in which interpretation services were provided; and
 - 3) any complaints concerning language access which have been forwarded by the

Department of Police Accountability (DPA).

The Language Access Liaison shall send the report through their chain of command prior to submission. The report should be sent to the DPA at the time of submission to the Police Commission Office. The report will be posted publicly in accordance with posting requirements managed by the commission office. Lastly, preparing a fiscal year report for the Office of Civic Engagement and Immigrant Affairs (OCEIA) addressing the Department's language access efforts.

References:

DGO 2.04, Citizen Complaints Against Officer