

## **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 individuals, 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. **CERTIFIED BILINGUAL MEMBER:** SFPD Members certified by the city or another

designated qualifying agency to provide language interpretation services in one or more languages other than English. The Department will train all members in interpreting techniques, roles, and ethics to ensure they understand and adhere to confidentiality and impartiality rules.

G. NON-CERTIFIED BILINGUAL MEMBER: SFPD Members identifying themselves as having ability to provide language interpretation services in one or more languages other than English but not certified by the city or another designated qualifying agency to do so.

H. CERTIFIED CIVILIAN INTERPRETER: A Certified Civilian Interpreter is an individual certified by the city or other designated qualifying agency. They may be an employee of another city department, or an outside agency contracted to provide either in-person or telephonic interpretation services.

I. EXIGENT CIRCUMSTANCES: See DGO 3.02 (Terms and Definitions)

#### 5.20.04 PROCEDURES

A. GENERAL. The following procedures shall apply to members who encounter LEP individuals while performing law enforcement functions absent exigent circumstances. During exigent circumstances, 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.

B. IDENTIFYING LEP INDIVIDUALS. When encountering individuals who may be LEP, members shall use any reasonable methods to ascertain their LEP status. Common indicators of a language barrier that may help members identify LEP individuals, include but are not limited to:

- Request for translation.
- Code-switching from English to another language.
- Use of an interpreter by the call taker at DEM.
- Incomplete or fragmented sentences and misuse of English.
- Limited proficiency in English OR limited ability to exchange information or answer questions (i.e. the individual answered "yes or no" to questions that required an explanation).
- Facial or body gestures indicating difficulty with English.
- Physical responses to verbal commands (i.e., hand me your driver's license).
- Request for a sign language interpreter (See DGO 5.23).

Additional factors when interacting with LEP individuals:

- Need for language assistance in understanding intricate law enforcement procedures and actions despite casual conversation ability.
- Stressful situations affecting language capabilities.
- Cultural factors or unfamiliarity with availability of interpretation and/or translation services preventing requests for language assistance.

An accent alone does not imply language barriers. Additionally, members may use their communication skills and other available resources to gather information, ensure public safety, control scenes, identify issues, and provide basic information. Members shall follow proper procedures to ensure appropriate language access services are provided if requested or required after identifying an LEP individual.

- C. IDENTIFICATION OF PRIMARY LANGUAGE. Members can use various tools to identify the primary language or specific dialect of a LEP individual and request a suitable interpreter. These tools include but are not limited to maps, country flags, language access cards, artificial intelligence, apps like Google Translate, family members, friends, neighbors, volunteers, bystanders, children, or by contacting DEM or a professional interpretation service.

D. USING THE SERVICES OF BILINGUAL MEMBERS

1. The Staff Services Unit shall maintain a listing of all Certified and Non-Certified Bilingual Members as well as Certified Civilian Interpreters. This list will be provided to and kept with the Language Access Liaison Officer and the Staff Services Unit.
2. If SFPD Certified Bilingual Members are unavailable, SFPD members may also utilize a Certified 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.
3. Depending upon the severity of crime and in certain situations (or barring situations that require testifying in court or involve formal statements), SFPD members may also utilize a Non-Certified Bilingual member.

- E. ORDER OF PREFERENCE. Members shall provide oral interpretation services to LEP individuals they encounter in the following order of preference unless deviations are required to respond to exigent circumstances.

1. In-Person Interpretation Services.
  - a. Certified Bilingual Member: Preferred method of providing services to LEP individuals.
  - b. Certified Civilian Interpreter: When Certified Bilingual Members are unavailable, members shall use a Certified 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 Certified Civilian Interpreter during business hours. If a Certified Civilian Interpreter is needed outside of business hours, the Department of Operations Center will contact the Language Access Liaison Officer to arrange services.

2. Telephonic Interpretation Services: When certified 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 Certified Civilian Interpreter to provide interpretation services by telephone.
3. Depending upon the severity of crime and in certain situations (or barring situations that require testifying in court or involve formal statements), SFPD may also use non-certified bilingual members for providing interpretation services to LEP individuals.
4. Officers should take reasonable steps to ensure that the certified or non-certified interpreter does not know any of the parties.

F. RESTRICTIONS.

1. SFPD members should not use artificial intelligence, apps like Google Translate, 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, victims, and potential suspects, or in investigations, collection of evidence, negotiations, or other sensitive situations.
2. If an exigent circumstance requires a member to use artificial intelligence, apps like Google Translate, family members, neighbors, friends, volunteers, bystanders or children for initial language assistance, the member shall seek the assistance of a Certified Bilingual Member, Certified Civilian Interpreter, or other professional interpreter to confirm or supplement the initial translation or interpretation as soon as practical.

G. GENERAL INTERVIEWS, FIELD CONTACTS, ENFORCEMENT, AND INVESTIGATIONS. Members should seek the assistance of a Certified Bilingual Member, Certified Civilian Interpreter, other professional language service provider, including audio or remote video interpretation services, or non-certified bilingual members. 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.

H. MIRANDA ADMONITION AND WRITTEN FORMS. The Miranda Admonition and all other written forms shall be provided in suspect's primary language when available. If not translated or the person is illiterate, forms shall be read aloud in suspect's primary language by the Certified Bilingual Member or Certified Civilian Interpreter

I. FORMAL INTERVIEWS AND CUSTODIAL INTERROGATIONS. Effective communication and accuracy of victim and witness statements is a priority in criminal investigations. Failure to protect the rights of LEP individuals during arrests and custodial interviews may present a risk to the integrity of the investigation and prosecution. A Certified Qualified Bilingual Member is preferred and when not available, a Certified Qualified Civilian Interpreter shall be used during formal interview with an LEP victim and/or witness, any custodial interrogation, or when taking of a formal statement where the suspect or

witness' legal rights could be adversely impacted. In-person interpretation shall be provided, unless the LEP person consents to the use of an interpreter via telephone or other exigent circumstance(s) exists. All LEP custodial interrogations shall be taped unless exigent circumstance(s) exist. When used for interpretations, the duties of Certified Bilingual Members are primarily to provide interpretation services, unless exigent circumstances arise.

- J. NOTIFICATION OF INTERPRETATION SERVICES TO LEP INDIVIDUALS. In accordance with SF Admin Code Section 91.2 (e), signs shall be posted at the main public entry or lobby of each SFPD facility, indicating that interpreters are available at no cost to LEP individuals.
- K. 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 (Certified Bilingual Member's star number or Certified Civilian Interpreter's identification number), and the manner interpretation services were provided. All this information shall be indicated in the incident report.
- L. 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.
- M. 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.
- N. 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 Certified Bilingual Members List.
- O. 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.

P. 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.

Q. 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

DGO 5.23, Interactions with Deaf and Hard of Hearing Individuals