

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.

1. **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 to LEP individuals if assistance is requested or required, and when feasible, inform them that these services are available free of charge.

2. **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, translation apps, family members, friends, neighbors, volunteers, bystanders, children, or by contacting DEM or a professional interpretation service.
3. **Bilingual Member List.** The Staff Services Unit shall maintain a listing of all Certified and Non-Certified Bilingual Members as well as Certified Civilian Interpreters. This list shall be provided to and kept with the Language Access Liaison Officer and the Staff Services Unit. Members shall receive the necessary contact details and Department account codes to access these services
4. **Use of Interpreters**
 - a. **Order of Preference.**
 - i. In-Person Interpretation Services:
 1. Certified Bilingual Member: Preferred method for LEP services.
 2. Certified Civilian Interpreter: Use when Certified Bilingual Members are unavailable.
 - ii. Telephonic Interpretation Services: If in-person certified interpreters are unavailable, use professional language services via phone as soon as practical.
 - iii. Non-Certified Bilingual Member: Can be used for in-person or telephonic services during exigencies or for facilitating non-evidentiary communication such as during initial contacts or to provide and/or gather general information.
 - iv. Reasonable Steps: Members should take reasonable steps to ensure that the certified or non-certified interpreter does not know any of the parties.
 - b. **Procedures for specific scenarios.**
 - i. **Field Contacts, Enforcement, and Investigations.** Field contacts with LEP individuals typically include traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control, and other routine interactions. Members should adhere to the specified order of preference for interpretation services outlined above.
 - ii. **General Interviews.** Members should adhere to the specified order of preference for interpretation services outlined above.

- iii. **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 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. Members shall proactively arrange for an interpreter when s/he has reason to believe the witness is an LEP individual. All LEP custodial interrogations shall be taped unless exigent circumstance(s) exist.

- iv. **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.
- c. **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.
- d. **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.
- e. **Restrictions.** Members should not use family members, neighbors, friends, volunteers, bystanders, or children to interpret for a LEP person to facilitate any evidentiary communications unless exigent circumstances exist, and a more reliable interpreter is not available. If used during exigent circumstances, members shall seek the assistance of a certified bilingual member or civilian interpreter to confirm or supplement the initial translation or interpretation as soon as practical. The use of Artificial Intelligence and translation apps for interpretation purposes should be in accordance with City and County of San Francisco guidelines.

5. **Translated Documents.** SFPD shall maintain written forms and guidelines for assistance to LEP individuals.
 - a. **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.
 - b. 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.
- B. **PROCEDURES DURING EXIGENCIES.** 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.
- C. **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.
- D. **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.
- E. **TRAINING.** 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.
- F. **RECORDING AND TRACKING LANGUAGE ACCESS SERVICES.** 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.
 1. **Language Access Liaison Officer's Duties.** The Language Access Liaison officer's duties include but are not limited to:
 - a. Monitoring compliance with the General Order;
 - b. Coordinating language access training at the Academy;
 - c. Coordinating interpreter training for qualified bilingual members and employees;
 - d. Coordinating telephonic and third-party interpreter services as required by this

order;

- e. 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;
- f. Coordinating as needed meetings with the Department of Police Accountability and community groups to discuss and resolve language access complaints;
- g. Overseeing the LEP data collection and reporting as detailed below; (this will require implementation of RMS)

2. 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:
 - i. the number of calls for service, contacts and investigations involving LEP persons where an incident report was required;
 - ii. the manner in which interpretation services were provided; and
 - iii. any complaints concerning language access which have been forwarded by the Department of Police Accountability (DPA).
- c. 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