

## **SAN DIEGO POLICE DEPARTMENT PROCEDURE**

**DATE:** 01/24/2014

**NUMBER:** 1.47 - ADMINISTRATION

**SUBJECT:** LIMITED ENGLISH SPEAKERS

**RELATED POLICY:** N/A

**ORIGINATING DIVISION:** TRAINING

**NEW PROCEDURE:**

**PROCEDURAL CHANGE:**

**SUPERSEDES:** **NEW DEPARTMENT PROCEDURE**

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### **I. PURPOSE**

This Department procedure establishes guidelines, consistent with Title VI of the Civil Rights Act of 1964, and Omnibus Crime Control and Safe Streets Act of 1968, which prohibit discrimination based on national origin. The members of the San Diego Police Department will adhere to the following guidelines when providing services to, or interacting with, individuals who have Limited English Proficiency (LEP).

### **II. SCOPE**

This procedure applies to all members of the Department.

### **III. BACKGROUND**

Effective and accurate communication between Department members and the communities they serve is very important. Language barriers can impede such effective and accurate communication in a variety of ways. Language barriers can sometimes inhibit or even prohibit individuals who are LEP from accessing and/or understanding important rights, obligations, and services, or from communicating accurately and efficiently in different situations. Hampered communication with limited English proficient victims, witnesses, suspects, and community members can jeopardize safety and create evidentiary and investigative challenges.

**IV. DEFINITIONS**

- A. Primary Language - language that the individual is most capable of using for communication. All SDPD members should make an effort to identify the person's primary language to ensure the most effective means of communication.
- B. Limited English Proficiency (LEP) Person - individuals whose primary language is not English and who have a limited ability to read, write, speak, or understand English. It should be noted that individuals may be capable of communicating verbally or understanding through listening, but they may require assistance with reading or writing in either English or their primary language.
- C. 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.
- D. Translation - the replacement of written text from one language (source language) into an equivalent written text in another language (target language).
- E. Qualified Bilingual Member - For purposes of this procedure, Department members who identify themselves as "bilingual" must demonstrate, through a formal procedure which has been established by the City of San Diego Personnel Department, 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 City Personnel.
- F. Qualified Civilian Interpreter - 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.
- G. Exigent Circumstances - 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, (i.e. physical loss of property, witness or victim.)

**V. PROCEDURES**

All Department members will make reasonable efforts to provide access to LEP persons to all programs, activities, or services provided by the Department. This may include, but will not be limited to, free language assistance services when needed or requested by an LEP person.

Department members are to follow these procedures in all encounters, absent exigent circumstances; however, exigent circumstances may require some deviation. In such situations, Department 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 policy.

**A. General**

The following procedures shall apply to Department members who encounter LEP individuals while performing their duties within the San Diego Police Department.

**1. Identification of Primary Language**

- a. All Department members will be provided a language identification card to aid in the identification of the primary language spoken by the LEP individual. The Communications Division will coordinate the delivery of the language identification card to the officers. Additionally, an electronic version of the language identification card can be found in the online Resource Library.
- b. The Department member may find it necessary to utilize a language card in a face-to-face situation, to determine which language a person speaks. The language identification card lists the languages most frequently encountered in North America, grouped by geographical region where they are commonly spoken.
  - 1) When a Qualified Bilingual Member of the department is not on scene, one can be requested over the police radio.
  - 2) Additionally, the Department member can telephone the Police Communications Division for assistance.
- c. Department members should display the language identification card to the LEP person so the person can identify the language they speak prior to calling a qualified bilingual member, contract, or

professional interpretation service. The member should then request the appropriate interpreter.

- d. If the LEP person does not appear able to read or understand the language identification card, the member may coordinate with police communications to reach out to the professional interpretation service (Language Line) and advise the service of the situation. With assistance from the Language Line, members should attempt to ascertain the LEP individual's language in order to obtain a suitable interpreter.
2. Using the Services of Bilingual Members

  - a. The Human Resources Division shall maintain a listing of all Department Qualified Bilingual Members. This list will be provided to Operational Support Division and Communications Division.
  - b. In the event Department Qualified Bilingual Members are unavailable, Department members may also utilize a Qualified Civilian Interpreter. Qualified Civilian Interpreters, including contract and professional interpretation associations, or other professional interpreter services including interpretation services offering in-person interpretation, as well as those offering telephonic interpretation, will be accessed through Department Communications Division.
  - c. When a monolingual officer calls a bilingual officer to the scene for language assistance services, unless that bilingual officer is capable and willing to take over the situation, the bilingual officer should function as an independent interpreter. It is the investigating/responding officer's responsibility to develop and ask any questions. The bilingual officer's role is to serve as a neutral interpreter.

3. Order of Preference

All Department 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.

- a. Direct Communication or Interpretation by a Qualified Bilingual Member - the preferred method of providing services to LEP persons is through the use of a Qualified Bilingual Member.

- b. Use of Qualified Civilian Interpreter - when Qualified Bilingual Members are unavailable; members shall use a Qualified Civilian Interpreter, including a professional interpreter, to provide in-person interpretation services.
- c. Telephone Interpreter - when qualified interpreters are not available to provide service in person, SDPD members may request through the Communications Division a Qualified Civilian Interpreter, such as Language Line, to provide interpretation services by telephone.
- d. Officers should take reasonable steps to ensure that the qualified interpreter does not know any of the parties. If an officer believes that there is a conflict of interest or potential bias with an interpreter, the officer should consult with an available supervisor. The supervisor will decide if another interpreter is warranted and/or whether it would be more appropriate to utilize the Language Line.

4. Restrictions

- a. Department members should not use family members, neighbors, friends, volunteers, bystanders or children to interpret for a LEP person unless exigent circumstances exist or a more reliable interpreter is not available. This includes communications involving witnesses, victims and potential suspects, or investigations, collection of evidence, negotiations or other sensitive situations.
- b. 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, or a Qualified Civilian Interpreter, to confirm or supplement the initial translation or interpretation as soon as practical.

5. Preliminary Interviews

When conducting general interviews, members should seek the assistance of a Qualified Bilingual Member, or a Qualified Civilian Interpreter, whenever the member encounters an LEP person who requests an interpreter or is unable to communicate with, or is experiencing difficulty communicating with, the member.

6. Follow-Up 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.

7. Interrogations

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.

8. Procedures for Specific Scenarios

a. Custodial Interrogations and Crime Victim Interviews

- 1) 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. Department members must recognize that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution.
- 2) A Qualified Bilingual Member or Qualified Civilian Interpreter shall assist 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 or interpretation by a Qualified Bilingual Member. When a Qualified Bilingual Member is not available, a Qualified Civilian Interpreter shall be provided.

The following procedures shall be utilized in custodial interrogations:

- a) 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 circumstances exist. Department members shall have access to contract interpreters and/or a directory of professional interpreter associations and services via Communications Division. All LEP custodial interrogations shall be recorded unless exigent circumstances exist.
- b) 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.

b. Field Contacts, Enforcement, and Investigations

- 1) Field contacts with LEP persons include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts.
- 2) The preferred method of providing services to LEP persons is through the use of a Qualified Bilingual Member in a face-to-face contact.

c. Citizen Complaints from LEP Individuals

- 1) It is essential that the community have confidence in the administrative procedures of the Department, particularly in the exercise of police powers.

Allegations of misconduct against members of the Department and complaints of inadequate service must be investigated thoroughly and expeditiously to maintain the integrity and efficiency of the Department.

- 2) A sound internal procedure for thorough and impartial investigations of allegations arising out of such circumstances is important to each member of the Department. Resolving complaints in a fair, impartial, and expeditious manner will ensure the consistent high level of integrity and efficiency by the Department.
- 3) The preferred method of providing services to LEP persons is through the use of a Qualified Bilingual Member in a face-to-face contact.

d. Notification of Interpretation Services to LEP Individuals

- 1) At the main public entry or lobby of each SDPD facility, signs shall be posted in frequently encountered languages stating that interpreters are available free of charge to LEP individuals.

B. Procedures for Communications Division

Dispatchers who receive calls from LEP individuals should attempt to determine the language the caller speaks. If there is a dispatcher working who can interpret in the caller's primary language, the dispatcher who receives the initial call shall transfer the caller to the bilingual dispatcher for interpretation. Whenever possible, calls requiring interpretation should be handled by the Division's bilingual dispatchers. The dispatcher who transfers the call must stay on the line until the bilingual dispatcher has answered. If the call is received on 9-1-1, and the caller is transferred to a Communications interpreter, the Automatic Number Identification (ANI) and the Automatic Location Identification (ALI) information do not display until the line is disconnected by the transferring dispatcher. Should the caller hang up prior to the transfer being completed, the 9-1-1 dispatcher shall format a 9-1-1 hang-up incident and give the incident number and phone number to a bilingual dispatcher for call back.

1. 9-1-1/ Emergency Calls

- a. If an emergency call is received from an LEP caller and a bilingual dispatcher for that language is not available, the dispatcher shall transfer the call to Language Line Services by either selecting the "Language" button on the VESTA screen or by dialing (866) 538-0732. When the call is answered, the dispatcher will be instructed to select the language needed; 1-Spanish, 2-Vietnamese, 3-Mandarin, 4-Somali, 5-Arabic or 6-All Other Languages. If asked, the San Diego Police Department's six-digit client ID is 901421.

- 1) To assist the Interpreter
  - a) State the name of the desired language. If you don't know which language to request, the representative will assist you.
  - b) Summarize what you want to accomplish and give any special instructions.
  - c) Give the interpreter specific questions to relay. Organize your questions to help the conversation flow smoothly and efficiently.
  - d) When the call is complete advise the interpreter, "End of Call."
- b. The dispatcher shall format an incident, if appropriate, following Department policies and procedures. In the incident, the dispatcher shall note that the caller is LEP and the primary language of the caller. The comments should also reflect whether there is an interpreter standing by to assist.

2. Administrative/Non Emergency Calls

- a. If a non-emergency call is received from an LEP caller and a bilingual dispatcher for that language is not available, the dispatcher shall transfer the call to Language Line Services. This number can be found on the VESTA screen by selecting LAW, then ADM Language. The dispatcher may also transfer the call by dialing (800) 840-2138.

When the call is answered, the dispatcher will be instructed to select the language needed: 1-Spanish, 2-Vietnamese, 3-Mandarin, 4-Somali, 5-Arabic or 6-All Other Languages. The dispatcher will also be asked to provide their ID number and the four-digit client ID, 2273.

**Note** – Language Line Services interpreters identify themselves by first name and number only. For reasons of confidentiality, they do not give either their full names or phone number.

3. Dispatch/Field Responsibility

- a. Whenever possible, Police Dispatchers shall dispatch a Qualified Bilingual Member to assist LEP individuals who request police assistance. Sending a Qualified Bilingual Member should not delay getting help to the caller.

C. 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 and the manner in which interpretation services were provided.

D. Translated Documents

The Department shall maintain written forms and guidelines for assistance to LEP individuals.

1. The Department shall translate tapes, documents, evidence, or other materials submitted by LEP individual(s) into English. This will be implemented when such evidence is necessary to continue the investigation and/or prosecution of a criminal case or a Departmental administrative investigation. The assigned investigative unit will coordinate the required translations with either a Qualified Bilingual Member or Qualified Civilian Interpreter who have demonstrated competency in translation (list of bilingual individuals and/or interpreters will be kept on file within the SDPD Communications Division).
2. The Operational Support Unit will be responsible for classifying all Department forms and documents as vital or non-vital and determining into what languages the vital documents should be translated. The Operational Support Division will assess demographic data, review language access services utilization data, and consult with community-based organizations to inform these decisions. The Operational Support Division will be responsible for having the documents translated, distributed to LEP communities and available to Department members on the Department F: drive under Shared/Operational Support.
3. Department informational forms will also be made available to all community members on the SDPD website <http://www.sandiego.gov/police>. Translation of these forms for LEP individual(s) can be accomplished by using the provided machine translation program (e.g. Google and Yahoo Translate).

E. Airport

Primary jurisdiction of the airport is with the Port Authority who employs the San Diego Harbor Police to provide public safety services. However, in such occurrences where members of the San Diego Police Department may be called upon to provide services at the airport, they will adhere to Department policies reference LEP individuals.

F. Coordination of Bi-Lingual List

The list of Department members who are certified bilingual speakers will originate from City Personnel. City Personnel will provide a list of those members who are certified bilingual speakers to the Department's Human Resources Unit as the members test and become certified. On a yearly basis, the Department's Human Resources Unit shall provide Communications Division and Operational Support Division with an updated copy of the Department's Bilingual Personnel List.

G. Training

1. In an effort to ensure all Department members are properly trained in these guidelines, the Department 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 trainings for new recruits at in-service training and at patrol line-ups for Department members at least every two years.

H. Recording and Tracking of Language Access Efforts

The Assistant Chief of Neighborhood Policing will be responsible for, and will direct as necessary, divisions within the Department to address translation and interpreter services, develop training, respond to language access concerns/suggestions by staff and the public, review Department progress and coordinate budgetary, procurement and contracting matters related to language access.

1. Disposition of Incidents

- a. To allow for tracking of incidents where language assistance services are provided for a citizen with Limited English Proficiency, officers in the field shall detail the type(s) of service utilized within the CAD incident history and use the proper disposition code when closing the incident. Members who arrange for language assistance services in situations where an incident has not been formatted through Communications will request a CAD incident be generated by Communications in which the details of the contact may be entered. As with a field contact, the incident shall be closed using the disposition code.

2. Language Access Liaison Officer

- a. The Department shall designate a Language Access Liaison officer from within the Operational Support Division. This officer shall

prepare quarterly (or, as needed), a written report on LEP matters, through the chain of command, to the Chief of Police.

- b. The Language Access Liaison Officer's duties include, but are not limited to:
    - 1) Monitoring compliance with the Department Procedure;
    - 2) Coordinating language access training at the Academy In-service Training;
    - 3) Coordinating interpreter training for qualified bilingual members and employees;
    - 4) Coordinating telephonic and third party interpreter services as required by this Procedure;
    - 5) Working with Communications to establish a system that immediately identifies LEP calls and promptly dispatches language assistance, preferably with a bilingual officer speaking the requested language;
    - 6) Coordinating as needed meetings with community groups to discuss and resolve language access complaints;
    - 7) Overseeing the LEP data collection through the system;
    - 8) Preparing a biannual report addressing the Department's language access efforts.
3. Each year, the department shall collect LEP data as to all calls for service, contacts and investigations that require an incident report.
4. The Language Access Liaison Officer from the Operational Support, Division will endeavor to generate an annual report, where the following data shall be provided: 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; 3) Any complaints concerning language access which have been forwarded by the Internal Affairs Unit; and 4) The Department's resolution to any language access complaints. This report shall be a public document that is posted on the Police Department's website.