

Limited English Proficiency Services

332.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

332.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

Interpret or 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) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These 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.

Qualified bilingual member - A member of the Santa Monica Police Department who has the ability to communicate fluently, directly and accurately in both English and another language, and has been successfully certified by the City of Santa Monica's Department of Human Resources. Bilingual members may have varying levels of proficiency and may be fluent enough to communicate in a non-English language, but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

332.2 POLICY

It is the policy of the Santa Monica Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities. The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right and will take all reasonable steps to ensure timely and equal access.

332.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law

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enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) 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 or Department personnel.

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

332.4 TYPES OF LEP ASSISTANCE AVAILABLE

Depending on the balance of the above four factors, the Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services where available.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept Department-provided LEP services at no cost or they may choose to provide their own at their own expense.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

332.5 WRITTEN FORMS AND GUIDELINES

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

332.6 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

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332.7 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have been certified by the City of Santa Monica's Department of Human Resources and have demonstrated a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this Department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

332.8 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the Department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the Department which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this Department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

332.8.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

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- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this Department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to Department guidelines.

332.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Where qualified bilingual members or other authorized interpreters are unavailable to assist, responsible members of the community who have demonstrated competence in interpretation and translation may be called upon to assist in communication efforts. Sources for these individuals may include neighboring police departments, university language 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.

Department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer. Generally, the use of an LEP individual's bilingual friends or family members, particularly children, is not recommended except for exigent or very informal, and non-confrontational circumstances. Department personnel shall make case-by-case determinations on the appropriateness of using such individuals.

332.9 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this Department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this Department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

332.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Santa Monica Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

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332.10.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Public Safety Communications Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

332.11 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

332.12 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. 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.

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If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized Department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by a qualified bilingual member or an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card. The person providing the interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

332.13 CUSTODIAL INTERROGATIONS

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 personnel providing interpretation services or translated forms in these situations will 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 custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

332.14 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

332.15 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this Department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate.

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Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this Department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

332.16 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this Department are important to the ultimate success of more traditional law enforcement duties. This Department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

332.17 SUPPLEMENTAL MATERIALS

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

- (a) A list of Departmental bilingual employees, languages spoken and contact and shift information
- (b) A list of Department-certified interpretation services, bilingual interpreters, languages spoken and contact and availability information
- (c) The telephone number and access code of telephonic interpretation services
- (d) Translated Miranda warning cards and other frequently used documents
- (e) Audio recordings/warnings that are developed in non-English languages

332.18 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access Department-authorized telephonic and in-person interpreters and other available resources.

The Training Sergeant shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Sergeant shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

332.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. 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

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understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Sergeant shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.