



POLICY AND PROCEDURE NO. 806

Limited English Proficiency (LEP)

Date Issued: October 11, 2024

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6 Pages

1. PURPOSE:

Language barriers can sometimes inhibit or even prohibit Limited English Proficient persons, (LEP hereinafter), from accessing assistance and/or understanding important rights, obligations, and services, or from communicating accurately and effectively in a variety of interactions between the public and police personnel. Miscommunications with victims, witnesses, suspects, and people in the community because of language differences can jeopardize safety and create evidentiary and investigative challenges. It is the purpose of this policy and procedure statement to provide methods for Worcester police personnel to effectively overcome possible language barriers with members of the public.

2. POLICY:

It is the policy of the Worcester Police Department to ensure meaningful communication with LEP persons and their authorized representatives involving police services and activities. The Worcester Police Department will take reasonable steps to ensure that LEP persons have meaningful access to services and an equal opportunity to participate in encounters with the Department regardless of their national origin, or limited ability to speak, read, write, or understand English. This policy will be implemented in accordance with the subsequent procedures delineated herein and in associated directives/general orders.

This policy also provides for communication of information contained in vital documents, which are used or issued by Department personnel. All interpretation and translation services needed to comply with this policy shall be provided without cost to the LEP person being served, and such person will be informed of the availability of such assistance free of charge.

Language assistance will be provided through use of competent bilingual staff, and a contract for language bank services with Language Line Solutions who will provide interpretation and translation services either in person or via telephone contact.

The Worcester Police Department has designated the Deputy Chief of Support Services as the department's LEP coordinator. This position will serve as a resource for other staff and will communicate directly with the City's Human Resource staff to report any problems or concerns with the implementation of this policy.

All department employees will be provided notice of this policy and procedure, and those that may have direct contact with LEP persons will be trained in the effective use of an interpreter. Such training will include but not be limited to training directives, roll-call training and/or in service training modules.

3. DEFINITIONS:

A. Exigent Circumstances:

Circumstances requiring prompt action before language services can reasonably be obtained in order to protect life, prevent serious injury, to protect substantial property interests; to apprehend or identify a fleeing offender; or to prevent the hiding, destruction, or alteration of evidence. Because 911 responses and police encounters are inherently exigent and rapidly evolving in nature, are uncertain, and because responding officers must at all times preserve scene safety for all, these exigent circumstances allow the responding officer latitude in his or her methods of establishing effective and rapid communications with an individual at the outset and throughout the citizen contact.

B. 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.

C. Limited English Proficiency (LEP hereinafter) Person:

An LEP person is someone who does not speak English as their primary language and has limited ability to read, speak, and/or write English at a level that permits them to interact efficiently with English speakers or documents without language assistance.

D. Translation:

The replacement of written text from one language (source language) into and equivalent written text in another language (target language).

E. Vital Documents:

Paper or electronic material that contains information critical for accessing the Worcester Police Department's services, or is required by law, which may include Miranda Warnings, OUI rights, or other rights advisories.

To determine if a document is "vital", the City of Worcester's Human Resources Office and/or the Law Department will assess whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Whether a document is "vital" may depend upon the importance of the program, information, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner.

Examples of "vital" written documents could include the following:

- Consent and complaint forms
- Intake forms with the potential for important or legal consequences
- Written notices of eligibility criteria, rights, denial, loss or decrease in benefits or services, and other hearings
- Notices advising LEP persons of free language assistance.
- Applications for a program, activity, or to receive a city government benefit or service.

4. PROCEDURE:**A. Identifying LEP Persons:**

At the outset of encounters between Worcester Police Department personnel and a person who may be LEP (whether in the field or at police HQ), personnel shall seek to determine whether that individual is LEP using all necessary methods available to them. Patient, deliberate, open-ended questions to the subject may aid in this determination. Failing that, inquiry with the individuals' companions or others that know, or know of the individual, may be of assistance in determining whether the person is LEP. Such inquiry would be appropriate under circumstances in which the subject is unable to respond and provide relevant information because, for example, they are intoxicated, impaired and/or injured. If the officer, official, or staffer determines the person is LEP, personnel shall then endeavor to promptly identify the language and communication needs of the LEP person.

During 911 call response, the dispatcher generally notifies responding personnel that a language barrier exists and can usually identify the primary language.

B. Identification of the Primary Language:

After the initial determination is made that a person is LEP, the person's primary language needs to be identified. Methods of discerning one's primary language include but are not limited to the following:

- Self-identification of primary language by the LEP person.
- Language identification cards or online images developed by Language Line Solutions. (See exhibit #1).
- Inquiry with bystanders or persons who know or know of the LEP person.
- A call initiated to the Language Line Solutions reception may be able to discern the primary language at the outset of the contact.

C. Oral Interpretation:

1. Exigent Circumstances:

Because police responses and encounters with community members in the field are generally emergent in nature, it is necessary that personnel be permitted greater latitude in quickly establishing communications with community members. Bilingual police department interpreters may be used in all cases where their deployment satisfies the rationale for exigent circumstances (see definition above). The services of bystanders, family members, or others who are present and can rapidly assist in establishing communications with an LEP individual while the exigent conditions continue to exist, may be utilized during the period as well. (See restriction and limitation guidelines below.)

2. Stable Scene Conditions, Non-Exigent Circumstances:

Bilingual police department personnel may also provide interpretations services under stable scene conditions/non-exigent circumstances where they are on-scene or may be called to the scene without unreasonable delay (in view of the acuteness of the situation/scene). Every effort should be made to assure the subject as to the reasoning for the delay in the arrival of the bilingual officer so as not to delay emergency services or to place the person in fear that he or she is in custody.

The services of bystanders, family members, or others who are present and can assist in establishing communications with an LEP individual is acceptable provided that LEP person does not object to the use of this assisting individual. Quite often, persons who are LEP will present themselves to police accompanied by a trusted interpreter. The use of these interpreters is to be allowed subject to the restrictions and limitation guidelines below.

D. Restricted Language Assistance Practices Absent Exigent Circumstance:

Language assistance obtained through minors, family members, neighbors, friends, volunteers, or bystanders can be unreliable, particularly in: (1) communications involving witnesses, victims, and potential suspects; (2) investigations, collection of evidence, and negotiations; (3) imparting of rights advisories, and (4) sensitive types of investigations such as suspected domestic violence, child abuse, child abduction, and/or sex assault. Accordingly, once the exigency has passed, personnel should refrain from using the interpreter services of minors, family members, neighbors, friends, volunteers, or bystanders wherever possible.

If exigent circumstances require WPD personnel to use restricted language access practices, as described above, the WPD employee shall seek the assistance of qualified bilingual personnel, an interpreter, or a telephone interpreter to confirm or supplement the initial information acquired using unauthorized language assistance as soon as practicable.

Bilingual police department personnel may provide interpretations services under stable scene conditions/non-exigent circumstances where they are on-scene or may be called to the scene subject to the restrictions below.

E. Bilingual Personal Interpretation:

Police personnel may be used for interpretations services under emergent and non-emergent conditions provided their level of bilingual ability allows for effective interpretation with the subject and where their interpretation skill facilitates effective communication. In making such a determination, Police department personnel should consider the following non-exhaustive factors:

- The frequency with which they utilize the language or form of communication in question,
- Their ability to think, perceive, and understand the language or form of communication,
- Their command of relevant terms related to law enforcement and varying circumstances, and
- The extent to which their attempts at interpretation could prejudice or harm the subject.

Police personnel (sworn or civilian) who engage in interpretive services must continually evaluate the quality of their discourse with the LEP person to affirm that the individual is fully understanding the interpreted messages.

In more significant matters, where the police interpreter has any level of doubt as to the effectiveness of his or her communications with a subject and where the subject may have to waive certain rights to a knowing and intelligent standard, or where certain rights advisories need to be imparted, it is advisable to err on the side of caution and acquire a professional interpreter for these purposes. In yet other cases, (i.e., M.G.L. Ch. 221 Sec. 92A) the use of interpreters is statutorily mandated. Moreover, as the Language Line services offer third-party,

uninterested interpreters, it may be prudent to make use of that service where a conflict of interest may be alleged. While the good will and abilities of bilingual staff are recognized and appreciated, the potential for legal implications may require that the services of professional interpreters be used.

F. Engaging Language Line Interpreter Services:

Language Line Solutions will be accessed via telephone. Mobile devices with the Language Line Solutions App will be available for deployment in the Operations Division for each precinct when needed for translation services. An official will sign out the device when it is to be deployed during their tour of duty. The official will sign in the device upon completion of the encounter that required translation services by the end of their tour of duty. Personnel are directed to call the Language Line Solutions at the following number and using the Client ID below:

1-866-874-3972

Client ID: (see intra-department memo)

Upon receipt of this call, Language Line Solutions will arrange for an immediate interpreter to speak to the customer on the phone. See Exhibit #3 for call access information.

Alternatively, personnel may elect to put the Language Line App in their phone. This is by far the easiest mode to use this service and it allows for video interpreting where you, the interpreter, and the person you are speaking with can see one another. The visual aspect used via the app is a necessity when engaging with individuals who are deaf or hard of hearing and can use American Sign Language.

Access to this app is as follows:

- Download the Language Line App
- Enter authentication code: (see intra-department memo)
- Enter a device name.

(See instruction sheet Exhibit #4)

G. In Person Interpretation:

For those times when telephonic interpretation is not adequate to meet the LEP person's needs, the staff person will contact Language Line Solutions and make an appointment for an on-site interpreter within 48 hours.

H. Documenting the LEP Event:

In instances where personnel utilize the services of an interpreter, entry is to be made in the call record or in the incident report indicating this occurrence and the name and ID number, if applicable, of the interpreter.

I. Providing Written Translations:

The City will make every effort to provide written translation of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. See Exhibit #2 for primary languages spoken in Worcester.

If there are fewer than 50 persons in a language group that reaches the five percent threshold, the City does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Original documents being submitted for translation will be in final, approved form with updated and accurate legal information.

To determine if a document is “vital”, the WPD’s LEP Coordinator can confer with the city’s DEI Office and/or Law Department to assess whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Whether a document is “vital” may depend upon the importance of the program, information, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner.

Examples of “vital” written documents could include the following:

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J. Language Identifier Postings/Images:

Personnel will be provided with a language identification notices or posters to determine the language services provided. The posters will serve to alert LEP individuals that interpretation is available in their language and provide staff with the number to call for service. In addition, when records are kept of past interactions with subjects, the language used to communicate with the LEP person will be included as part of the record.

K. Deaf and Hearing-Impaired Persons:

While the handling and service to persons who are deaf or hearing-impaired are addressed in separate policy and procedure, personnel should be aware of the restrictions delineated in M.G.L. Chapter 221 §92A.

Per:

Paul B. Saucier
Chief of Police