

SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 45.3**LANGUAGE ACCESS SERVICES FOR LIMITED ENGLISH PROFICIENT (LEP) PERSONS****ISSUED APRIL 2010**

The purpose of this order is to establish effective language access procedures, consistent with Title VI of the Civil Rights Act of 1964, the Omnibus Crime Control and Safe Streets Act of 1968 and other federal, state and local law, for Santa Clara Police Department (SCPD) members to follow when encountering a limited English proficient (LEP) individual. This order also defines the importance of effective and accurate communication between department members and the community they serve. Language barriers can impede such effective and accurate communication in a variety of ways. Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency 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.

45.3.1 Policy

It shall be the policy of the Santa Clara Police Department to 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, employees shall provide free language assistance to LEP individuals whom they encounter or whenever an LEP person requests language assistance services. The department recognizes the importance of effective and accurate communication between its employees and the diverse community it serves. It is the policy of this department to inform members of the public that language assistance services are available free of charge to LEP persons and that the department will provide these services to them as part of the department's community policing and enforcement efforts.

45.3.2 Definitions

PRIMARY LANGUAGE: The language in which an individual is most effectively able to communicate.

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.

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.

TRANSLATION: The replacement of written text from one language (source language) into an equivalent written text into another language (target language).

QUALIFIED BILINGUAL MEMBER: For purposes of this order, employees who identify themselves as "bilingual" must demonstrate, through a formal procedure, 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 formal procedure to become qualified is established by the City of Santa Clara Human Resources Department.

TELEPHONIC INTERPRETING SERVICE: An over-the-phone interpretation service in which off-site interpreters assist organizations in communicating with people who are LEP. The Santa Clara Police Department shall maintain a contract with an outside agency to provide telephonic interpretation services.

EXIGENT CIRCUMSTANCES: Exigent circumstances are defined as 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. (e.g., physical loss of property, witness or victim.)

45.3.3 Procedures

Department members are to follow these procedures in all encounters unless exigent circumstances exist. In exigent circumstance situations, employees 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.

GENERAL

The following procedures shall apply to employees who encounter LEP individuals while performing law enforcement functions.

IDENTIFICATION OF PRIMARY LANGUAGE.

Employees should make an effort to identify the primary language spoken by the LEP individual.

USE THE SERVICES OF BILINGUAL MEMBERS

After identifying the primary language of the LEP individual, employees should determine whether or not a Qualified Bilingual Member of the department is on duty and available to provide translation. Communications should maintain a list of current Qualified Bilingual Members. Utilizing a Qualified Bilingual Member is the preferred method of translation.

USE THE SERVICES OF A TELEPHONIC INTERPRETING SERVICE

When a Qualified Bilingual Member of the department is not available, employees may use a telephonic interpreter service. The department shall maintain a contract with a telephone

interpreter service. Employees may contact communications for the current contact information of the telephonic interpreter service.

When using the telephonic interpreter service, employees should identify themselves by name to the service for tracking purposes.

COMMUNITY VOLUNTEERS AND OTHER SOURCES OF INTERPRETATION

Except for exigent or very informal and non-confrontational circumstances, the use of an LEP individual's bilingual friends or family members, particularly children, is generally not recommended. Employees should make case-by-case determinations on the appropriateness of using such individuals.

INTERROGATIONS

The Miranda admonition and all other written forms should 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 Telephone Interpreter, in his or her primary language. Employees should not use a Community Volunteer or other interpretation source for Post-Miranda suspect interviews unless exigent circumstances exist.

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.

COMPLAINTS

The department shall ensure access for LEP persons who wish to file a complaint regarding the discharge of departmental duties. The department may do so by providing interpretation assistance to such individuals. If the department responds to complaints filed by LEP individuals, the department should attempt to communicate its response in an accessible manner.

TRAINING

In an effort to ensure all employees are properly trained in these guidelines, the department will provide training in LEP policies to all newly hired employees. The training will include how to access department-authorized telephonic and in-person interpreters and other available resources.