

	SFASU POLICE DEPARTMENT	
	Policy 7.6 Limited English Proficiency	
	Effective Date: 04/29/19	Replaces:
	Approved: John Fields, Jr. Chief of Police	
	Reference:	

I. POLICY

Our country has always been a melting pot of cultures. Throughout our history, individuals with limited English proficiency have found it difficult to clearly understand important rights, obligations, and services. It is, therefore, the policy of this department to take reasonable steps to ensure that all individuals have equal access to the rights, liberties, and services of government, regardless of their national origin or their primary language. (Title VI of the Civil Rights Act of 1964, § 601, 42 USC § 2000d)

II. PURPOSE

The purpose of this policy is to establish direction in dealing with members of the public who have limited English proficiency.

III. DEFINITIONS

- A. Limited English Proficiency (LEP): This term is used to describe individuals whose primary language is not English and who have a limited ability to read, write, speak, or understand English. LEP individuals may be competent in certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes, such as reading or writing. Similarly, LEP designations are context specific. For example, an individual may possess sufficient skills in the use of English to function in one setting but not in others.
- B. Interpretation: The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.
- C. Translation: The replacement of written text from one language into an equivalent written text of another language.

- D. Bilingual: The ability to communicate in two languages fluently, including the ability to communicate technical and law-enforcement terminology. For purposes of this policy, employees who are identified as bilingual must initially and periodically demonstrate, through a procedure to be established by the department, a level of skill and competence such that the department is able to determine how their skills can be used.
- E. Authorized Interpreter: An employee or other designated individual who is bilingual and has successfully completed department-prescribed interpreter training and is authorized to act as an interpreter or translator.

IV. COMMUNICATIONS

A. Receiving and Responding to Requests for Service:

1. In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 911 lines as its top priority for language services. Department personnel will make every reasonable effort to promptly accommodate such LEP individuals utilizing 911 lines through any or all of the resources listed below.
2. While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate LEP individuals seeking more routine access to services and information from this department by utilizing interpreters or translators, as described above in “Definitions.”

B. Emergency Calls to 911:

1. When a 911 call taker receives a call and determines that the caller is an LEP individual, the call taker should quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed and the language is known, the calltaker should immediately transfer the LEP caller to an available authorized interpreter to handle the call.
2. If an appropriate authorized interpreter is not available, the calltaker will promptly contact the contracted telephonic interpretation service directly for assistance in completing the call.

3. Dispatchers will make every reasonable effort to dispatch a bilingual officer to the assignment, if available.

V. FIELD RESPONSE TO LIMITED ENGLISH PROFICIENCY

A. Identification of an Individual's Primary Language:

1. Officers may encounter individuals in the field who do not clearly understand spoken English. Officers should be alert to clues that will indicate individuals do not clearly understand the officer.
2. An officer who believes an individual does not clearly understand English will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language in an effort to avoid misidentifying the language and failing to provide adequate service.
3. Officers needing assistance in communicating with the individual will utilize other options, including the use of signs and gestures, writing notes, or using others at the scene to attempt to communicate with the individual.
4. 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, and departmental personnel shall make case-by-case determinations on the appropriateness of using such individuals.
5. If further assistance is needed, the officer will contact communications in order to locate an interpreter or make contact with the telephone interpretation services.

B. Field Enforcement and Investigations:

1. 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. Department personnel must assess each situation to determine the need and availability for translation services to all involved LEP individuals and utilize the methods outlined in this policy to provide appropriate language assistance.

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

C. Investigative Interviews:

1. In any situation where the translation of an interview may contain information that might be used in a criminal trial, it is important to take steps to improve the chances of admissibility. 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. Identifying the contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.
2. Any person selected as an interpreter and/or translator must (1) have demonstrated competence in both English and the non-English language involved, (2) have knowledge of the functions of an interpreter that allow for correct and effective translation, and (3) not be a person with an interest in the case.
3. The person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court.

D. Custodial Interrogations and Booking:

1. In an effort to ensure that the rights of LEP individuals are protected this department places a high priority on providing competent interpretation during arrests and custodial interrogations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. Toward this end, 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.

2. If time and opportunity exist, the district attorney should be consulted regarding the proper use of an interpreter prior to any interrogation.
3. In order to ensure that translations during criminal investigations are documented accurately and that they are admissible as evidence, interviews with victims and all interrogations should be recorded whenever possible.
4. Employees providing interpretation or translation services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is within the control of department personnel. It is important for members of this department to make every reasonable effort to provide effective language services in these situations. Medical screening questions are commonly used to elicit information on an individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, symptoms that manifest themselves upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners.

E. LEP Contacts and Reporting:

When interpretation or translation services are provided to any involved LEP individual such services should be noted in the related report or any other required documentation.

VI. DEPARTMENTAL RESPONSE FOR LEP

- A. Since there are potentially hundreds of languages department personnel could encounter, the department has and will continue to utilize the four-factor analysis outlined by the Department of Justice in determining which measures will provide reasonable and meaningful access to various rights, obligations, services, and programs to individuals within this jurisdiction. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and requires an ongoing balance of the following four factors:
1. The number or proportion of LEP individuals eligible to be served or likely to be encountered by department personnel or who may benefit from programs or services within the department's jurisdiction or a particular geographic area.

2. The frequency with which LEP individuals are likely to come in contact with department personnel, programs, or services.
 3. The nature and importance of the contact, program, information, or service provided.
 4. The cost of providing LEP assistance and the resources available.
- B. 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 on department personnel.
- C. 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 interest or right, the above analysis will be utilized to determine the availability and level of assistance provided to any LEP individual or group.
- D. Types of LEP Assistance:
1. Department-provided assistance. Depending on the balance of the four factors listed in A above, this department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services, where available. Department-provided interpreter services may include, but are not limited to, the assistance methods described in this section
 2. Non-departmental assistance. LEP individuals may elect to accept interpreter services offered by the department at no cost, or they may choose to provide their own interpreter services at their own expense. Department personnel should document in any related report whether the LEP individual elected to use interpreter services provided by the department or decided to use a resource of his/her own choosing.
 3. Non-certified employee interpreters. Employees utilized for LEP services need not be certified as interpreters, but must have demonstrated, through established department procedures, a level of competence to ascertain whether the employee's language skills are best suited to monolingual (direct) communications, interpretation, translation or all or none of these functions.

4. Out-of-department assistance. When bilingual employees of this department are not available, employees from other city departments who have the requisite training may be requested.

E. Written Forms and Guidelines:

This department will determine the most frequently used and 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 departmental personnel and other appropriate individuals.

F. Telephone Interpreter Services:

The communications section will maintain a list of qualified interpreter services which, upon approval of a supervisor, can be contacted to assist LEP individuals. Such services shall be available to, among others, department personnel who have access to official cellular telephones.

G. Community Volunteers and other Interpretive Sources:

Where competent bilingual departmental personnel or other certified staff are unavailable to assist, responsible members of the community who have demonstrated competence in either monolingual (direct) communication and/or in interpretation and translation may be called upon to assist in communication efforts. Sources for these individuals may include neighboring police departments, university languages and linguistics departments, local businesses, banks, churches, neighborhood leaders, and school officials. NOTE: If these outside resources are used, department personnel should ensure that these community members are able to provide unbiased assistance.

H. Complaints:

The department shall ensure access to LEP persons who wish to file a complaint regarding the discharge of departmental duties. The department may do so by providing interpretation assistance or translated forms to such individuals. The department's response to complaints filed by LEP individuals will be communicated in an accessible manner.

I. Community Outreach:

Community outreach programs and other such services offered by this department have become increasingly recognized as 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 to LEP individuals and groups.

J. Training:

In an effort to ensure that all employees in public-contact positions or employees having contact with those in custody are properly trained, the department will provide periodic training to personnel about departmental LEP policies and procedures, including how to access department authorized, telephonic, and in-person interpreters and other available resources.

K. Interpreters and Translators:

1. Training: Employees called upon to interpret, translate, or provide other language assistance will be trained on language skills, competency (including specialized terminology), and ethical considerations.
2. Assessment: Department personnel identified as bilingual who are willing to act as authorized interpreters will have their language skills assessed by a professional interpreter using a structured assessment tool. Those employees found proficient in interpreting into and from the target language will be placed on the authorized-interpreters list.
3. Reassessment for Authorized Interpreters: Those persons who have been placed on the authorized interpreter list must be re-assessed periodically.
4. Additional or refresher language training will be provided by the department periodically.
5. Employees will be responsible for maintaining their proficiency and having their training and assessment results maintained in the training record.
6. The communications supervisor will ensure that the authorized-interpreters list is kept current and a copy of the current list is maintained in the communications center.

L. Supplemental Materials Provided

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

1. Listing of departmental bilingual employees, languages spoken, contact, and shift information.
2. Listing of department certified interpretation services bilingual interpreters, languages spoken, contact, and availability information.
3. Phone number and access code of telephonic interpretation services.
4. Language identification card.
5. Translated Miranda-warning cards and other frequently used documents.
6. Any audio recordings/warnings that are developed in non-English languages.

M. LEP Coordinator

1. The Chief of Police will appoint a department supervisor as LEP coordinator who is to be responsible for coordinating and implementing all aspects of the LEP services.
2. Using the four- factor analysis, the LEP coordinator shall assess demographic data, review contracted language access services utilization data, and consult with community-based organizations annually in order to determine if there are additional languages into which vital documents should be translated.
3. The LEP coordinator will also be responsible for annually reviewing all new documents issued by the department to assess whether they should be translated.