

	<b>HARRISONBURG POLICE DEPARTMENT</b> General Orders	<b>Policy Number:</b> 311
	<b>Chapter:</b> General Operations	<b>Total Pages:</b> 7
	<b>Section:</b> Interpreter Services	<b>Issue Date:</b> 07/02/2021
	<b>Issued By:</b> Kelley Warner, Chief of Police	<b>Effective Date:</b> 07/02/2021
	<b>Replaces:</b> All General Orders Previously Issued Relative to Subject	
<b>VALEAC Standards: ADM.02.02 (i)</b>		

## A. POLICY AND PURPOSE

It is the policy of the Harrisonburg Police Department to reasonably ensure that all citizens have meaningful access to law enforcement services, programs and activities.

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

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

## B. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

## C. DEFINITIONS

**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 proficiency (LEP) individual** - 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 exhibit 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 employee** - An employee of the Harrisonburg Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual employees 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).

#### **D. TYPES OF LEP ASSISTANCE AVAILABLE**

Harrisonburg Police Department employees should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

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 during non-arrest or non-criminal matters. During arrest situations, LEP individuals may request department provided LEP services at no cost.

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

#### **E. WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP coordinator will arrange to make these translated documents available to employees and other appropriate individuals, as necessary.

#### **F. 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.

#### **G. 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 testify during court proceedings or to establish the accuracy and trustworthiness of interpretations or translations.

Authorized interpreters must pass a screening process established by the LEP coordinator that demonstrates their skills and abilities in the following areas:

- 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.

Any interpreter candidate must complete a background check through Harrisonburg Police Department prior to being added to the authorized interpreter list. The background check should include checks through national, state, and local databases to ensure that the candidate has no felony convictions or other history that might compromise his or her involvement in police matters.

#### a. SOURCES OF AUTHORIZED INTERPRETERS

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

Other sources may include:

- Qualified bilingual employees 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.

#### b. QUALIFIED BILINGUAL EMPLOYEES

Bilingual employees may be qualified to provide LEP services when they have demonstrated through established department procedures 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 employees 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 employee 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.

### c. COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above) and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual employees or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

## H. FIELD ENCOUNTERS

Daily law enforcement related duties may involve interaction with persons possessing limited English proficiency. The scope and nature of these activities and contacts will inevitably vary. Employees 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 employees 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.

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

## I. INVESTIGATIONS

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 employee 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.

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
- Any other authorized interpreter
- An authorized telephone interpreter

Any *Miranda* warnings shall be provided to LEP suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

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

## **J. CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual employees or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations.

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.

## **K. BOOKINGS**

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

## **L. COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding employees of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP coordinator.

Authorized interpreters used for any interview with an LEP individual during a complaint investigation involving an department employee should not be employees of this department.

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

## **M. REPORTS/DOCUMENTATION**

Whenever any employee of this department is required to complete a report or other documentation that involves a situation in which interpretation services were provided to any involved LEP individual, such services should be noted in the related report. Employees 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.

A copy of the report or documentation should be forwarded to the LEP coordinator.

## **N. LEP COORDINATOR**

The Chief of Police shall delegate certain responsibilities to an LEP coordinator. The coordinator shall be appointed by, and directly responsible to, the Operations Bureau Commander or the authorized designee.

The responsibilities of the coordinator include, but are not limited to:

- a. Coordinating and implementing all aspects of the Harrisonburg Police Department's LEP services to LEP individuals.
- b. Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all employees.
- c. Ensuring that a list of all qualified bilingual employees and authorized interpreters is maintained and available to each Patrol Commander and Director of the Emergency Communications Center. The list should include information regarding languages spoken and contact information.
- d. Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- e. Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- f. Annually assessing demographic data and other resources, including contracted language services utilization data and data from community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- g. Identifying standards and assessments to be used by this department to qualify individuals as qualified bilingual employees or authorized interpreters.

- h. Periodically reviewing efforts of this department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, developing new procedures or recommending modifications to this policy.
- i. Receiving and responding to complaints regarding department LEP services.
- j. Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

## **O. TRAINING**

To ensure that all employees 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 Officer shall be responsible for ensuring new employees receive LEP training. Those who may have contact with LEP individuals should receive periodic refresher training. The Personnel Development Sergeant shall document and maintain records of all LEP training provided.

### **a. TRAINING FOR AUTHORIZED INTERPRETERS**

Individuals on the authorized interpreter list should receive refresher training annually to maintain their status as authorized interpreters. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Personnel Development Office shall be responsible for maintaining a record of the annual refresher training and will maintain a record of all training the interpreters have received.