



CLEVELAND DIVISION OF POLICE

GENERAL POLICE ORDER



EFFECTIVE DATE: OCTOBER 9, 2020	CHAPTER: 5 - Field Investigations	PAGE: 1 of 8	NUMBER: 5.12.04
SUBJECT: COMMUNICATING WITH THE LIMITED ENGLISH PROFICIENT AND DEAF			
CHIEF: <i>Calvin D. Williams, Chief</i>			

Substantive changes are italicized

PURPOSE: The Cleveland Division of Police is committed to providing equal service to all members of the public, including those who are Limited English Proficient (LEP) and deaf or hard of hearing (D/HOH).

POLICY: **It is the policy of the Cleveland Division of Police** to recognize that communication barriers can prevent individuals from accessing vital public services and prevent them from knowing and understanding the constitutional and civil rights to which they are entitled. The Division further recognizes the importance of effective and accurate communication between its members and the diverse community it serves. The Division shall establish practical guidelines, consistent with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and the Omnibus Crime Control and Safe Street Act of 1968, for members to follow when providing services to, or interacting with, individuals who are LEP and *D/HOH*.

DEFINITIONS:

Americans with Disabilities Act (ADA) - prohibits discrimination against people on the basis of disability in employment, transportation, public accommodation, communications, and governmental activities.

Bilingual - the ability to communicate in two languages fluently.

Exigent Circumstances - circumstances requiring action before language assistance services can reasonably be obtained in order to protect life or prevent serious injury.

Interpretation - the act of listening to *or observing* communication in one language (source language) and orally *or through sign language* converting it to another language (target language) while retaining the same meaning.

Language Assistance - includes, in addition to interpretation, bilingual officers who can interact in the non-English language directly with the LEP individual, telephonic interpreters who provide language assistance remotely over the telephone, translated forms, and signage, as well as English language written material explained orally to an LEP individual.

Limited English Proficient (LEP) Individual - an individual whose primary language is not English and has a limited ability to read, write, speak, or understand English. LEP designations are context-specific. An individual may possess sufficient English language skills to function in one setting but may find their skills are insufficient in other situations. Additionally, LEP individuals may be competent in certain types of English language communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing).

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Primary Language - the language in which an individual is most effectively able to communicate. *Primary languages include sign language.*

Qualified Interpreter - (as described by the ADA) is an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. *Qualified interpreters include sign language interpreters, oral interpreters, and cued-language translators.*

Translation - the replacement of written text from one language (source language) into *another language's equivalent written text (target language).*

Video Remote Interpretation (VRI) Device - *a tablet that connects, via cellular signal, to a qualified sign language interpreter.*

PROCEDURES:

I. General Requirements

- A. *Each Division building with direct public access shall have signs posted at each public access point or lobby, stating that interpreters are available free of charge to LEP and/or D/HOH individuals.*
- B. **Command staff responsibilities:**
 1. *The Commander of the Bureau of Community Relations, serving as the LEP Coordinator, shall:*
 - a. *On an annual basis, review Language Line utilization data, Computer-Aided Dispatch (CAD) system data, and member incident reports involving services to LEP and D/HOH individuals, and consult with community-based organizations to ensure that the Division is providing meaningful access to its services for LEP and D/HOH individuals.*
 - b. *Track and analyze the language needs of LEP populations served by the Division.*
 - c. *In cooperation with the Training Section, design and facilitate training that is adequate in quality, type, and scope.*
 - d. *Maintain flyers, brochures, posters, and the most commonly used Division forms translated into the primary LEP languages used in Cuyahoga County advising LEP individuals of the public services and rights available to them.*
 2. *District Commanders shall:*
 - a. *Identify the language needs of communities within their district on an annual basis and provide information regarding those needs to the LEP Coordinator by the end of the fourth quarter every year.*

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- b. *Ensure an adequate supply of translated materials to serve the communities within their district is available.*
- c. *Notify the Commander of the Bureau of Community Relations if the available translated materials are insufficient to serve the communities within their district adequately.*

II. Communications Control Section (CCS) Responsibilities

A. *When the caller is LEP or D/HOH (i.e., TTY or other interpreting services), Call Takers shall:*

1. *Inform the LEP caller that they will be immediately transferred to an interpreter if one is available.*
2. *Contact the Language Line if the caller's primary language is not available in CCS.*
3. *Ensure the dispatcher is aware of the caller's primary language or hearing impairment.*

B. *When the caller is LEP or D/HOH (i.e., TTY or other interpreting services), Dispatchers shall:*

1. *Make every effort to dispatch a bilingual member to the assignment if one is available.*
2. *When known, advise responding personnel of the primary language/mode of communication of the caller, victim, witness, and/or suspect as appropriate.*
3. *Note in CAD that the call involves an LEP or D/HOH person.*

III. Members Encountering the LEP or D/HOH Shall

A. *Be aware of common indicators that an individual may be LEP or D/HOH, and need some form of language assistance (i.e., individual has difficulty speaking and understanding English, requests an interpreter, requests another language, repeats words, talks to self or others in another language, etc.).*

B. *Be aware that when interacting with individuals who are or are suspected of being LEP:*

1. *Individuals who are not responding to a member's commands may be LEP.*
2. *May not be able to read any language effectively and may need a map or other picture-based aid to identify their language needs (e.g., "I Speak" notebook).*
3. *An individual's primary language may not be based upon their country of origin, as the individual may use a language other than that country's primary language.*

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- C. *Be aware that when interacting with individuals who are or are suspected of being D/HOH:*
 - 1. *Individuals who do not respond to members' commands or appear unaware of their presence may be D/HOH. Members shall make efforts to get into the line of sight of individuals who may be D/HOH.*
 - 2. *Sign language uses gestures, facial expressions, and physical contact as a means to facilitate communication. Strong emotion may be communicated through vigorous or emphatic signing, which should not be mistaken for aggression.*
 - 3. *Members should not assume that D/HOH persons can communicate well by writing and reading Standard English. Written communication between a member and a D/HOH person may not be accurate and only useful in very limited situations.*
- D. *Inform LEP or D/HOH individuals of available free interpretation and translation services, and arrange for services when requested or when the member believes that the service will assist with gathering or providing accurate information.*
- E. *When arresting an LEP or D/HOH individual, ensure through approved resources described below, that the arrested individual has been provided the means to understand what they are being arrested for and the process of arrest, including but not limited to providing that individual with translated Miranda warnings.*
- F. *When completing an incident report, identify if anyone listed is LEP or D/HOH and add the primary language if determined.*
- G. *Submit a Form-1 through the chain of command to the Bureau of Community Relations when there is a need to have certain Division forms, documents, or communications available in a particular language.*

IV. Resources Available to Division Members

- A. *A Language Line shall be accessible at any time and without advance notice. Members who require Language Line assistance shall contact CCS.*
- B. *CCS shall employ bilingual Dispatchers and Call Takers.*
- C. *"I Speak" notebooks or similar resources containing a sampling of languages. Members whose primary duties involve interaction with the public shall have the "I Speak" notebook or similar resource readily available.*
- D. *Each district headquarters is equipped with a Video Remote Interpretation (VRI) device to communicate with D/HOH individuals using sign language.*
 - 1. *The VRI device shall:*

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- a. *Not be used for anything other than communicating with a D/HOH individual.*
 - b. *Be used when a qualified sign language interpreter is not immediately available and/or when communication will be brief.*
 - c. *Be maintained in the district Officer-in-Charge office with instructions and log sheet when not in use.*
2. *Members using the VRI shall follow the directions and document usage on the log sheet. Members may use the VRI to:*
- a. *Complete property crime, misdemeanor, or non-violent felony incident reports.*
 - b. *Interview witnesses.*
 - c. *Communicate during citizen stops.*
 - d. *Process prisoners.*
 - e. *Facilitate general non-law enforcement related communication.*
- E. *Qualified sign language interpreters may be requested through the Cleveland Hearing & Speech Center or other agencies/organizations.*
- F. *Members who require a qualified interpreter shall notify a supervisor, and shall use a qualified interpreter in the following situations involving LEP or D/HOH individuals:*
- 1. *Violent felony offenses.*
 - 2. *Domestic violence or sexual assault cases.*
 - 3. *Miranda warnings.*
 - 4. *Individuals that appear to be heavily medicated or otherwise impaired due to alcohol or drugs.*
 - 5. *Deaf children, who are victims.*
 - 6. *Individuals with additional disabilities (e.g., blind, impaired vision, injuries to arms, or hands).*
 - 7. *Individuals that request or require police service and refuse to use a VRI for any reason.*

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V. Members Requesting Language Assistance Services

A. *Members shall not deny language assistance services based on time restraints or pending assignments.*

1. *A supervisor may respond to the scene to determine if language assistance services are necessary and note the reason why in their Daily Duty Report.*
2. *CCS shall document the same in the CAD system.*

B. *Members requesting language assistance services shall:*

1. *Attempt to identify the LEP individual's primary language through the "I Speak" notebook (or similar resource). For individuals who are D/HOH, members should determine the preferred method of communication through writing, the use of gestures, or any other form of visual communication.*
2. *Upon identifying the language used by the LEP or D/HOH individual, contact CCS to access the appropriate language resource.*
3. *Follow the general procedures outlined in this directive unless exigent circumstances and an immediate need to have someone act as an interpreter exist (e.g., to obtain descriptive information on a fleeing suspect, identifying information of an injured individual).*
 - a. *Members shall use the most reliable, temporary interpreter available, such as other members who profess another language proficiency.*
 - b. *Members may temporarily rely on the most neutral or least involved adult present to act as a temporary interpreter until a situation can be stabilized, and a qualified interpreter can be introduced to verify the information.*
4. *Barring exigent circumstances, not use minor children to provide language assistance.*
5. *If relying on bystanders to provide language assistance due to exigency as outlined in Section V.B.2.and B.3.above, confirm the statements through qualified language assistance, once such aid becomes available.*

C. *Members shall be mindful that using family, friends, or bystanders to provide language assistance could result in bias, a breach of confidentiality, a conflict of interest, or an inadequate interpretation*

1. *The use of friends, family, and/or bystanders to provide language assistance is only permissible at the LEP or D/HOH individual's request in very limited, informal, non-confrontational contexts. Such use must be documented in the incident report.*

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2. If the contact does not amount to a limited, informal, non-confrontational context, members shall summon an approved language assistance method, such as telephonic interpretation.
 3. Under no circumstances shall friends or family be utilized for language assistance in family matters, especially in suspected domestic violence.
- D. When using a non-Division employee to provide language assistance, especially if the language is of a very small community, be sensitive to any biases introduced by the individual providing language assistance.
1. Individuals from small communities may be familiar with the LEP or D/HOH person.
 2. If a member identifies signs of bias for or against the LEP or D/HOH individual, arrangements to secure another source of language assistance shall be made.
- E. Note the language, the name of the interpreter and agency affiliation in their duty report, *Mobile Computer-Aided Dispatch (MCAD) entry*, or incident report as appropriate.

VI. Investigations, Interviews, and Interrogations

- A. Translation services for documents related to an investigation shall be arranged through the Bureau of Communications and Property Control.
- B. Failure to protect the rights of LEP and *D/HOH* individuals during interviews and interrogations risk the integrity of any investigation.
1. *Members shall recognize that miscommunication during interrogations or witness interviews may substantially impact evidence presented in any related criminal prosecution.*
 2. A qualified interpreter shall be used for all custodial interrogations, and formal in-person witness statement as the suspect's legal rights could be adversely impacted.
 3. When possible, an independent in-person interpretation service shall be used during these investigations.
- B. Miranda Warnings, and all other vital written materials, *shall* be available to the suspect or witness in their primary language.
1. *If translated forms for a particular language are not available and in cases involving illiteracy, forms shall be read or signed to the suspect or witness in their primary language using the contracted interpretation services.*
 2. When a form is read or signed to the suspect or witness in their primary language, oral or signed communication will be documented in the incident report.

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3. Detectives shall access the Language Line or the Cleveland Hearing & Speech Center as needed for scheduled interpretive services when conducting investigative interviews with a victim, suspect, and witness interview.

THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.