

“It Shouldn’t Rest on Me:”

Providing Meaningful Language Access and Avoiding the Use of Children as Interpreters – Resources for Law Enforcement

*Casa de Esperanza: National Latin@ Network for
Healthy Families and Communities*



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ABOUT THE NATIONAL LATIN@ NETWORK

The National Latin@ Network for Healthy Families and Communities (a project of Casa de Esperanza) is a national resource center that receives funding from the Family Violence Prevention Services (FVPSA) division of the U.S. Department of Health and Human Services. The goal of the National Latin@ Network is to provide training & technical assistance, research, and policy advocacy focused on ending domestic violence and promoting the health and well-being of Latin@ communities throughout the country.

The National Latin@ Network provides training and consultations to practitioners, organizations and agencies who wish to enhance their services to Latin@ survivors, their families and communities. For more information on trainings, consultations and events, please send an email to ta@casadeesperanza.org.

For additional information on developing a language access plan and other resources, please visit our [Language Access Toolkit at www. https://nationallatinonetwork.org/lep-toolkit-home](https://nationallatinonetwork.org/lep-toolkit-home).

PROLOGUE: LISTENING TO THE VOICES OF CHILDREN WHO HAD TO SERVE AS INTERPRETERS

These quotes capture some of the experiences described by children who had to serve as interpreters for their parents. From their quotes, it is evident that these kinds of experiences can induce a lot of additional stress for children. It is helpful to keep these experiences in mind.

- “At times I didn’t want to translate. It was embarrassing to be the interpreter. To not understand what that person was saying or how exactly it was my parents wanted me to convey their message. It was unnerving, uncomfortable, even shameful. The way people would look at me sometimes. The tone they’d use. The frustration in their voices. In my own parent’s body language. But in all honesty, it was hard. It still is. I’d flutter around in half English words, half made up Spanish vocabulary, trying my best to dialogue in conversations far beyond my comprehension level, not to mention my age. There was a lack of sophistication in my vocabulary. I didn’t understand technical terms, industry specific terminology and much less *indirectas* or *habladas*.”¹
- “I remember being 6 and my grandmother was in the hospital I had to translate for my mom. There were also other families there who could not speak English and my mom told

¹ Alanis, J. (2011). www.juanofwords.com. Retrieved from <http://www.juanofwords.com/2011/05/translating-for-my-parents/>



me “*Mija ve y ayudales!*” Translating for strangers was not fun when you’re 6.”²

- “I wasn’t only telling mum and dad what the letter said, I was telling them what they should be doing with it and what the next steps were,” she says. This wasn’t normal for an eight-year-old, right? They say as you get older you end up looking after your parents and the role of care is reversed. I felt like that happened to me since I was in grade four. It did cause a lot of stress, because if I didn’t know something, I didn’t know who to turn to for help. I felt responsible for them and it all rested on me.”³

OVERVIEW

Individuals who are limited English proficient (LEP) are those for whom English is not their primary language and they have a limited ability to read, write, speak, or understand English. Immigrants to the United States come from many language backgrounds and while some speak English very well, approximately half of the total immigrant population of 43.3 million in 2015 was LEP. According to the U.S. Census Bureau, in 2015 more than 25.9 million people in the United States ages five or older spoke English less than “very well,” representing 9% of the overall U.S. population ages five and older (Batalova & Zong, 2016).

2 *Huffington Post.* (2017). <https://www.huffingtonpost.com>. Retrieved from https://www.huffingtonpost.com/entry/translating-immigrant-parents-kids_us_5a43e516e4b06d1621b6948e

3 *Pryor, C.* (2017). www.abc.net.au. Retrieved from <https://www.abc.net.au/news/2017-08-10/when-kids-translate-for-their-migrant-parents/8767820>

Meaningful language access is key to ensuring safety and justice for individuals with limited English proficiency. Meaningful language access is defined as “language assistance that results in accurate, timely, and effective communication at no cost to the Limited English Proficient individual” (U.S. Department of Justice, 2012, p. 3). Furthermore, the ability to communicate accurately and effectively with victims, witnesses, and suspects across languages and cultures is critical for ensuring successful police investigations and overall public safety.

The use of certified or qualified interpreters and certified bilingual officers is considered a best practice for language access provision. Using unqualified interpreters, family members, children or bystanders as a means for communicating with individuals with LEP can significantly reduce the accuracy of the interpretation, undermine victim privacy and confidentiality, result in conflicts of interest, and cause interpretation errors that may exacerbate language barriers and misunderstandings. These barriers can, in turn, jeopardize an investigation and even put the safety of the victim and community at risk.

The use of children as interpreters during law enforcement interactions is especially problematic. Interpreting in high stakes situations, particularly when the life, safety or well-being of a loved one may be at risk, is an enormous responsibility that can generate feelings of anxiety and stress, particularly in children, and compound the trauma that these children are



already experiencing. Moreover, children's limited understanding of adult issues and terminology may result in interpretation errors, summarization of events in which necessary details are omitted, and additions or paraphrasing that may significantly impact the information that is being relayed (Flores, 2005; Juckett & Unger, 2014).

Additionally, using the children of victims or suspects as interpreters can cause conflicts of interest, as children may fear the potential consequences that one parent, or the other, might face. As a result, children might seek to downplay the violence that occurred. This may affect what is being conveyed by the child, and inaccurate interpretations can undermine an investigation and ultimately have safety implications for the victim and the children. Furthermore, research on the impact of language brokering⁴ on early adolescents shows that negative feelings while interpreting, such as nervousness and embarrassment, operate as stressors that are linked to depressive symptoms and an increased risk of substance abuse (Kam & Lazarevic, 2014).

For all of the aforementioned reasons, best practices in language access state that using children as interpreters should be avoided. Model law enforcement policy provisions are included in this document. The only exceptions that appear in these model policies are certain exigent circumstances when life or safety may be at risk and it is not possible in that moment to access

⁴ "Language brokers facilitate communication between two linguistically and/or culturally different parties. Unlike formal interpreters and translators, brokers mediate, rather than merely transmit, information." (Tse, L.: *Language Brokering in Linguistic Minority Communities: The Case of Chinese and Vietnamese-American Students. The Bilingual Research Journal, Summer/Fall 1996, Vol. 20, Nos. 3 & 4, p. 485*)

a qualified interpreter. However, best practice indicates that qualified language assistance- such as a certified interpreter, qualified interpreter⁵ or bilingual officer- should be provided as soon as possible and as soon as these exigent circumstances end.

Additionally, it is important to keep in mind that state and local law enforcement agencies that receive any federal funds (including federal funds passed through state administering agencies) must provide meaningful language access for individuals with LEP in compliance with Title VI of the Civil Rights Act of 1964. Federal laws and regulations prohibit discrimination based on national origin and establish standards to ensure that people who are LEP have meaningful access to federally conducted and federally funded programs and activities. (Title VI, Civil Rights Act, 1964; Executive Order 13166)⁶ Implementation guidelines for Title VI prohibit not only intentional discrimination but also neutral practices that have a discriminatory impact on access to services for individuals with

⁵ "Certification means that an interpreter or translator has been tested by a government or professional institution with certifying authority, using a statistically valid, professionally designed exam, or another clearly defined method, and has demonstrated a minimum level of professional competence in interpreting or translation." From the National Association of Judiciary Interpreters and Translators (NAJIT). Retrieved from: <https://najit.org/resources/the-profession/>. Please note that not all languages have certification. "Qualified" is a category that refers to interpreters for languages that are not certified but who have been evaluated for professional skills, have demonstrated, high-level proficiency in both languages and can abide by the Codes of Ethics for the interpreting profession.

⁶ 42 U.S.C. §§ 2000d through 2000d-7 ("Title VI"), and its implementing regulations, 28 C.F.R. Part 42, Subpart C; See also www.LEP.gov for additional information.



LEP. Many individual federal programs, states, and localities also have provisions requiring language services for LEP individuals.

One of the key steps for ensuring meaningful access is for agencies to establish a policy and develop a comprehensive language access plan for communicating with LEP individuals. While some jurisdictions outsource the development of agency-wide policies or use available templates, the best practice is for each jurisdiction to develop its own language access policy, as this a critical step for aligning the agency's mission and philosophy to the ways in which the agency will ensure meaningful language access. Customizing the agency's language access policy to meet the agency's needs and those of the communities it serves, is a necessary strategy for providing meaningful language access services. One of the key steps for ensuring meaningful access is for agencies to establish a policy and a plan for communicating with LEP individuals.

The following are some of the key elements that should be included in an agency's language access plan:

- Develop clear policies and practices about when and how language access services will be provided, and by whom. Include specific policies discouraging the use of bystanders, family/friends and children;
- Ensure that the agency's language access plan includes protocols and practices for providing meaningful language access not only for more frequently encountered languages, but also for individuals with LEP who speak

less commonly encountered languages;

- Ensure that agencies' language access plans include protocols and practices for recruiting, assessing and certifying bilingual law enforcement officers (LEOs) and those who are qualified to serve as interpreters.
- Provide for the translation of vital documents to meet the identified language needs of the community;
- Train all staff on guidelines regarding the appropriate protocols for providing meaningful language access to individuals with LEP;
- Collect data and periodically review policies and monitor implementation to assess effectiveness, identify necessary improvements in the policies, and provide updated training.

In sum, proactively developing a comprehensive language access plan and providing necessary training and resources to ensure implementation of the policies and protocols are key ways to avoid the use of informal and unreliable communication methods when interacting with individuals with LEP. It is also an essential element in preventing the use of children as interpreters. Model law enforcement policy provisions on the topic are highlighted in this document, together with research summaries and additional resources.



COMPILATION OF RELEVANT RESOURCES REGARDING USE OF CHILDREN AS INTERPRETERS: CONSIDERATIONS FOR LAW ENFORCEMENT

Federal Interagency Website Resources

Planning Tool: Considerations for Creation of a Language Assistance Policy and Implementation Plan for Addressing Limited English Proficiency in a Law Enforcement Agency

(U.S. Department of Justice, Civil Rights Division, Federal Coordination and Compliance Section)

“Family members, neighbors, friends, acquaintances, bystanders, and children generally should not be used for interpretation, especially for communications involving witnesses, victims, and potential suspects, or in investigations, collection of evidence, negotiations, or other sensitive situations, except temporarily in unforeseen, emergency circumstances while awaiting professional interpretation or bilingual officers.” (para. III-A, Section 2a)

Retrieved from Federal Interagency Website at: https://www.lep.gov/resources/Law_Enforcement_Planning_Tool.htm

Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools from the Field (U.S. Department of Justice Civil Rights Division; Sept. 21, 2004)

“Accuracy and effective communication are as critical in domestic violence situations as in any emergency. Do not rely on friends and family members to interpret for the LEP victim in important and sensitive interactions.”

“It is very important to avoid using children as interpreters in domestic violence cases. Since many children accompany the client to meetings or at the shelter, police departments, and other services, it is sometimes perceived as convenient to use children to interpret. Children can suffer psychological harm from having to hear and interpret the details of abuse.” (Chapter 3, Section D).

Retrieved from Federal Interagency website at: https://www.lep.gov/guidance/tips_and_tools-9-21-04.htm (Chapter 3: Tips and Tools Specific to Law Enforcement Agencies)

Limited English Proficiency (LEP) Frequently Asked Questions

(U.S. DOJ, Civil Rights Division, Federal Coordination and Compliance Section, 2011)

“Oral language assistance service may come in the form of “in-language” communication (a demonstrably qualified bilingual staff member communicating directly in an LEP person’s language) or interpreting. Interpretation can take place in-person, through a telephonic interpreter, or via Internet or video interpreting.”

“An interpreter is a person who renders a message spoken in one language into one or more languages. An interpreter must be competent and have knowledge in both languages of the relevant terms or concepts particular to the program or activity and the dialect and terminology used by the LEP individual.”



Depending upon the circumstances, language assistance services may call upon interpreters to provide simultaneous interpretation of proceedings so that an LEP person understands what is happening in that proceeding, or to interpret an interview or conversation with an LEP person in a consecutive fashion.

Interpreter competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but may not be competent to interpret in and out of English. Agencies should avoid using family members, children, friends, and untrained volunteers as interpreters because it is difficult to ensure that they interpret accurately and lack ethical conflicts.” (p. 8)

Retrieved from Federal Interagency website at: https://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf

MODEL LANGUAGE ACCESS PROVISIONS BY LAW ENFORCEMENT AGENCIES

Many law enforcement agencies have developed language access plans, which include provisions discouraging the use of children as interpreters.

In 2016, the New York Police Department (NYPD) reached an agreement in a federal lawsuit that had been brought on behalf of domestic violence victims with limited English proficiency (LEP) who had been denied meaningful language access by the NYPD.

The agreement states that people with limited English proficiency (LEP) have the right to certified interpretation when interacting with the NYPD and orders officers to carry cell phones assigned to the NYPD with direct language access and to end the practice of using children or bystanders as interpreters.⁷ In response to this agreement the NYPD developed a comprehensive and inclusive language access policy.

Below we highlight sample language access provisions from the NYPD language access plan, as well as provisions from other police departments, as promising practices to prevent the practice of using children as interpreters:

New York Police Department (NYPD) Language Access Plan:

“As possible victims or witnesses to an incident, a child should be interviewed; however, absent exigent circumstances, a child should not be used as an interpreter for any kind of police incident, including domestic violence. Some words and concepts are difficult for a child to understand, let alone translate into another language. Interviewees are not likely to be forthcoming if a child is used to interpret and will be especially hesitant to reveal details of a sexual assault to a police officer through a child.” (NYPD, 2018, p. 6)

Retrieved from: <https://www1.nyc.gov/>

⁷ <https://www.vipmujeres.org/learn-more/language-access/>; See also Statement of Interest filed by U.S Department of Justice Civil Rights Division in the case of *Padilla v. The City of New York* found at: https://www.justice.gov/sites/default/files/crt/legacy/2013/11/26/padilla_soi_11-22-13.pdf



[assets/nypd/downloads/pdf/public-information/language-access-plan-aug-2018.pdf](https://assets.nypd/downloads/pdf/public-information/language-access-plan-aug-2018.pdf).

Modesto Police Department (MPD): Limited English Proficient Assessment Plan and Service Delivery:

“Children may only be used as interpreters for exigent circumstances. Once the exigent circumstance has ended, personnel must request an MPD Authorized Interpreter (AI) or other LEP resources via Stanislaus Regional 9-1-1. Family members, friends or bystanders may be used for interpreting very informal, non-confrontational situations, and only to obtain basic information at the request of the LEP individual. MPD personnel should recognize that relying on family, friends or bystanders to interpret could result in a breach of confidentiality, a conflict of interest, or an inadequate interpretation.”

(Modesto Police Department, 2007, p. 3)

Retrieved from: https://www.lep.gov/ModestoLEPpolicy_OJP.pdf

Baltimore Police Department (BPD) Language Access Services for Limited English Proficient Persons:

“During domestic violence encounters, it is prohibited to rely on a family member to interpret, unless exigency exists, because of potential partiality due to fear of arrest or other personal biases (see below regarding Reliance on Children).

In exigent circumstances, family members may be temporarily asked to interpret in domestic situations only where safety might be compromised and if no feasible alternative exists. Once the situation

is stabilized, a QBM or Professional Interpreter shall be used to verify the details of the domestic incident.”

“Members should avoid asking children to act as interpreters for any kind of police incident, including domestic violence, absent exigent circumstances. Children can be potential witnesses to the incident, particularly in domestic-related cases. Children may also lack the cognitive ability, vocabulary, or impartiality needed to interpret effectively.” (Baltimore Police Department, 2017, p. 7).

Retrieved from: <https://www.baltimorepolice.org/1735-language-access-services-limited-english-proficient-lep-persons>

San Francisco Police Department General Order: Language Access Services for Limited English Proficient (LEP) Persons:

Section E on Restrictions:

“1. SFPD members should not use family members, neighbors, friends, volunteers, bystanders or children to interpret for a LEP person unless exigent circumstances exist and a more reliable interpreter is not available, especially for communications involving witnesses, victim and potential suspects, or in investigations, collection of evidence, negotiations or other sensitive situations.”

“2. If an exigent circumstance requires a member to use family members, neighbors, friends, volunteers, bystanders or children for initial language assistance, the member shall seek the assistance of



a Qualified Bilingual Member, Qualified Civilian Interpreter, or other professional interpreter to confirm or supplement the initial translation or interpretation as soon as practical.” (San Francisco Police Department, 2007, Section E, p.3)

Retrieved from: <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14772-DGO5.20.pdf>

See also similar language in the LEP provisions of the following police departments:

- **Fulton County Sheriff’s Office Limited English Proficiency (LEP) Guidelines, page 3** Found at: https://www.lep.gov/resources/FultonCountySD_OJP.pdf
- **Knoxville Police Department Limited English Proficiency (LEP) Assistance Plan, page 4** Found at: https://www.lep.gov/resources/KnoxvillePD_OJP.pdf
- **Reno Police Department, Limited English Proficiency Directive, page 4** Found at: https://www.lep.gov/reno-leppolicy_ojp.pdf
- **Philadelphia Police Department, Limited English Language Proficiency (LEP) Directive, page 3** Found at: https://www.lep.gov/resources/PhilaDirective71_1.pdf

EXIGENT CIRCUMSTANCES: DEFINITIONS AND DURATION

The excerpts below show that, while many model policies recognize that there may be limited exceptions that require departing from standard procedures regarding language access provision, model policies should also include a definition of exigent circumstances that makes it clear that this departure from standard procedure only applies in limited emergency situations

and that standard procedures should be resumed as soon as those exigent circumstances end.

San Francisco Police Department: General Order Regarding Limited English Proficient (LEP) Persons:

“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).”

“PROCEDURES: SFPD members are to follow these procedures in all encounters absent exigent circumstances; however, exigent circumstances may require some deviation. In such situations, SFPD members 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. (San Francisco Police Department, 2007, p.2)

Philadelphia Police Department, Limited English Language Proficiency (LEP) Directive

“Exigent Circumstances: Police personnel are expected to follow the general procedures outlined in this directive; however exigent circumstances may require some deviations. In such situations, personnel are to use the most reliable, temporary interpreter available, such as bilingual Police Personnel. Examples may include the need to obtain descriptive information on a fleeing suspect, or identifying information of an



injured person however, once an exigency has passed, all personnel are expected to revert to the general procedures in this directive.” (Philadelphia Police Department, 2005, p.3)

RESEARCH ON THE PREVALENCE AND CONSEQUENCES OF USING CHILDREN AS INTERPRETERS

National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access

By: Natalia Lee, Daniel J. Quinones, Nawal Ammar & Leslye E. Orloff (April 16, 2013)

This report is based on the results of a nationwide survey of organizations serving immigrant victims of domestic violence, sexual assault and human trafficking, and explores police responses to immigrant victims of crime from the perspectives of various service providers, including legal services, pro bono attorneys, social service organizations, domestic violence/sexual assault programs, law enforcement and prosecutors’ offices.

Agencies participating in the survey reported that 14,341 of their LEP clients had called the police for help. In 30% of the cases, an unqualified interpreter was used. Instead of a qualified interpreter, a child of the victim and/or perpetrator was asked to act as interpreter 1,472 times (24.3%) (Lee, Quinones, Ammar & Orloff, 2013, p. 29). The report mentions that “the Department of Justice has stressed that law enforcement should not rely on friends and family members to interpret for the LEP victim. These individuals may be untrained, biased, or can pose confidentiality and safety risks.

Law enforcement should especially avoid relying on children as interpreters as they can suffer from psychological harm from having to recount details of the crime” (Executive Order 13166, as cited in Lee, Quinones, Ammar & Orloff, 2013, p. 29)

Retrieved from: <http://library.niwap.org/wp-content/uploads/2015/IMM-Rsch-NatlSurveyServiceProviders-04.16.13.pdf>

Gregory Juckett, MD, MPH, and Kendra Unger, MD, West Virginia University School of Medicine, Morgantown, West Virginia. Appropriate Use of Medical Interpreters Am Fam Physician. 2014 Oct 1;90(7):476-480.

More than 25 million Americans speak English “less than very well,” according to the U.S. Census Bureau. This population is less able to access health care and is at higher risk of adverse outcomes such as drug complications and decreased patient satisfaction. Title VI of the Civil Rights Act mandates that interpreter services be provided for patients with limited English proficiency who need this service. Professional interpreters are superior to the usual practice of using ad hoc interpreters (i.e., family, friends, or untrained staff). Untrained interpreters are more likely to make errors, violate confidentiality, and increase the risk of poor outcomes. Children should never be used as interpreters except in emergencies.... In addition to acting as a conduit for the discussion, the interpreter may serve as a cultural liaison between the physician and patient. When a bilingual clinician or a professional interpreter is not available, phone interpretation



services or trained bilingual staff members are reasonable alternatives. The use of professional interpreters (in person or via telephone) increases patient satisfaction, improves adherence and outcomes, and reduces adverse events, thus limiting malpractice risk. (Juckett & Unger, 2014, p. 476)

“The use of younger children as interpreters is especially problematic because of their limited understanding of adult issues, and the practice is forbidden in several states.” (Juckett & Unger, 2014, p. 478)

Retrieved from: <https://www.aafp.org/afp/2014/1001/p476.html>

Glenn Flores, Medical College of Wisconsin. *The Impact of Medical Interpreter Services on the Quality of Health Care: A Systematic Review. Medical Care Research and Review, Vol. 62 No. 3, (June 2005) 255-299*

“Studies indicate that there is an especially high risk of adverse consequences when the ad hoc interpreters are children, including not interpreting perceived embarrassing but important clinical questions (Ebdon et al. 1988) and frequent interpreter errors of potential clinical consequence (Flores et al. 2003).” (Flores, 2005, Pages 294-295)

Retrieved from: <https://stepup.ucsf.edu/sites/stepup.ucsf.edu/files/The%20Impact%20of%20Medical%20Interpreter%20Services%20on%20the%20Quality%20of%20Health%20Care.pdf>

RESEARCH ON THE IMPACT OF LANGUAGE BROKERING ON CHILDREN

Robert S. Weisskirch, Sylvia Alatorre Alva: *Language Brokering and the Acculturation of Latino Children*

Hispanic Journal of Behavioral Sciences, Vol. 24 No. 3, August 2002 369-378

Using a paper-and pencil survey, 36 bilingual Latino fifth graders reported their experiences and levels of comfort in language brokering, levels of acculturation, feelings of acculturative stress, and self-concepts (page 369).

(...) brokering requires high levels of cognitive and linguistic skills, which may be challenging for children still developing those skills. Consequently, the experience may be stressful for them, particularly when they may feel insecure in their competence to convey the information accurately. In addition, when children language broker, their role in relation to their parents and other adults is reversed; parents and other adults become dependent on them for information. Children do not choose this role reversal but are obligated by familial ties and adult authority to participate in that ascribed role and act as language brokers. At the time of language brokering, children may not like this ascribed role filled with unsolicited power and complicated status and authority (p. 377).

Jennifer A. Kam, Vanja Lazarevic: *The Stressful (and Not So Stressful) Nature of Language Brokering: Identifying When Brokering Functions as a Cultural Stressor for Latino Immigrant Children in Early Adolescence*



J Youth Adolescence (2014) 43:1994–2011

[W]hen Latino early adolescents perceived brokering as a burden, brokering for parents functioned as a stressor, placing Latino early adolescents at risk for family-based acculturation stress, and in turn, alcohol and marijuana use.

(Kam & Lazarevic, 2014, p. 1994)

Negative brokering feelings exhibited a significant direct effect on depressive symptoms, which is concerning. Drawing from general strain theory (Agnew 2001), feeling embarrassed and nervous when brokering may function as a noxious stimulus, threatening Latino early adolescent's goal attainment (e.g., to broker without feeling embarrassed and nervous), and resulting in the removal of something that is positively valued (e.g., confidence and calmness). Thus, negative brokering feelings operate as a cultural stressor that is related to greater negative psychological reactions via depressive symptoms. (Kam & Lazarevic, 2014, p. 2007)

Retrieved from: <https://www.ncbi.nlm.nih.gov/pubmed/24241786>

RESOURCES FOR RECRUITING, ASSESSING AND CERTIFYING BILINGUAL LEOS AS INTERPRETERS

For many law enforcement agencies, utilizing LEOs who identify as bilingual is often considered a reasonable and cost-effective step towards providing meaningful language access. Although well intentioned, when the appropriate parameters are not in place for recruiting, assessing and certifying LEOs or other bilingual personnel, it can potentially impact survivor and officer safety. The following resources are shared for your consideration as you develop practices and protocols for utilizing LEOs as interpreters. Use the following resources, practices and protocols as you shape and develop your own agency language access plan and ensure that they are integrated into the plan and subsequent training and monitoring.

Resources

1. LEP Resource Guide for Law Enforcement
Retrieved from: https://www.dhs.gov/sites/default/files/publications/lep-resource-guide-law-enforcement_0.pdf

Key recommendations in this resource guide regarding the utilization of bilingual personnel include the following:

- Recruit bilingual personnel and offer a base pay increase for staff who pass a proficiency exam.
- Assess the language skills of bilingual personnel and provide ongoing training on the skills and ethics



associated with interpretation. For example, professional interpreters follow a canon of ethics that requires them to interpret accurately, impartially, maintain confidentiality, and refrain from embellishing, among other things.

- Periodic assessment of language ability should be mandatory if bilingual personnel engage in high stakes interactions (i.e., conducting investigations, executing warrants, conducting arrests, providing advice of rights/Miranda warnings, conducting booking, interrogations, witness interviews, etc., as opposed to providing directions).
- Provide bilingual personnel with police interpreter training. Encourage officers and civilian staff to use their language skills in accordance with the principles above with regard to assessment of language skills and training.
- Deploy bilingual personnel to areas with high numbers of LEP residents.
- Use bilingual civilian staff to conduct community outreach and build relationships between your department and immigrant and LEP residents.
- Avoid the use of friends and family members of the LEP individual.

2. National Association of Judiciary Interpreters & Translators, NAJIT Position Paper: Language Assistance for Law Enforcement

Retrieved from: <https://najit.org/wp-content/uploads/2016/09/LanguageforLawEnforcement2006.pdf>

Highlights include the following:

- In addressing the question as to whether bilingual personnel can serve as

interpreters, the NAJIT position paper states the following:

- “In any legal or quasi-legal context, professional language assistance means that accuracy is paramount... Bilingual personnel without prior training should not be expected to function as interpreters. To work with languages at a professional level, one needs to know forensics terms, medical terms, police procedure, the legal system, idiomatic expressions and street slang both in English and the foreign language, and one needs to prove such knowledge in a reliable test. The knowledge, skills and abilities needed to produce accurate interpreting or translating are not the same as those used in ordinary conversation. If language assistance at a professional level is expected within the department, those job competencies should be clearly defined and tested for by the law enforcement entity.”
- The NAJIT position paper states that many cases have been affected by substandard interpreting during law enforcement encounters with LEP persons. One of the examples provided includes the following:
- “State of Ohio v. Alejandro Ramirez , in which a twenty year-old Mexican national who could not speak, read, or understand English was interviewed by a law enforcement official. The administrative assistant who acted as interpreter had no familiarity with legal terms and produced a non-intelligible rendition of the questioning and the Miranda warning. Ramirez



was convicted of one count of murder but the case was later reversed and remanded. This case has been a learning landmark for the judiciary with regard to communication with LEP persons.”

3. Executive Order 13166, Limited English Proficiency Resource Document: Tips and Tools from the Field, U.S. Department of Justice, Civil Rights Division
Retrieved from: https://www.lep.gov/resources/tips_and_tools-9-21-04.htm

Highlights:

- “Training in basic, everyday expressions in another language can be very helpful. For instance, simple greetings and social language skills can help enormously in setting witnesses, victims, and community groups at ease and building a bridge of trust. In addition, providing language training to officers can be a useful tool to enable them to give simple commands and respond to common inquiries. However, such basic training does not substitute for the language skills necessary to decipher and express more complicated concepts, nor does it substitute for the skills necessary to engage in important communication, especially communication with potentially serious consequences.”

Promising Practices

The New Orleans Police Department institutionalized a process in which they have collaborated with the Civil Service to integrate a bilingual interpreter program in the police department as a way of recruiting, assessing and certifying its law enforcement officers as interpreters. In order to qualify LEOs as interpreters, the

Civil Service uses a professor from a local university to perform the Spanish assessments. In this case, the professor presents a job-related scenario like a home invasion or domestic violence incident and converses with the LEO in Spanish about the scenario. The professor then rates them on multiple scales for comprehension, pronunciation and fluency, vocabulary, grammar and naturalness of expressions. If LEOs meet the established threshold, the professor rates them as good or excellent, and are then referred to the NOPD as having passed the testing.

As a result of this collaborative effort, the NOPD has instituted a special rate of pay/ bilingual pay for employees of the police department who have been designated to use bilingual skills (including American Sign Language) in the regular performance of the employee’s duties. Employees of the department shall receive five (5) percent over their normal rate of pay if designated by the department as a translator or interpreter. Only individuals and positions that have been approved by the Civil Service can be designated to receive the Bilingual Salary Differential Allowance.

For more information on the New Orleans PD’s language access plan visit: <https://nola.gov/getattachment/NOPD/Policies/Language-Assistance-Plan-11-29-16.pdf/>



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