

# Limited English Proficiency Services

## 321.1 PURPOSE AND SCOPE

Federal MODIFIED

The Burnsville Police Department recognizes the importance of effective and accurate communication between its personnel and the community it serves. Language barriers can sometimes inhibit or even prohibit limited English proficient (LEP) individuals from accessing and/or understanding important rights, obligations and services, or from communicating accurately and effectively in difficult situations. Every effort to ascertain an individual's primary language will be made to ensure effective communication. Burnsville Police personnel will provide free language services assistance to LEP people encountered, or whenever an LEP individual requests language services assistance.

### 321.1.1 DEFINITIONS

Federal MODIFIED

Definitions related to this policy include:

**Bilingual** - The ability to use two languages proficiently.

**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 Proficient (LEP)** - 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 (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.

**Primary Language** - The native tongue or language in which an individual most effectively communicates.

**Translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

**Vital Document** - Any document that is used for official law enforcement purposes by the Burnsville Police Department.

## 321.2 POLICY

Best Practice MODIFIED

It is the policy of the Burnsville 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. (Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d; Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 16, 2000).)

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### 321.3 CITY LEP COORDINATOR

Best Practice MODIFIED

The Services Manager is appointed by the Chief of Police to act as the Department's liaison to the City of Burnsville LEP Coordinator. The LEP Coordinator is responsible for coordinating and implementing all language assistance efforts, procedures, training and signage for the City of Burnsville. On an annual basis, the LEP Coordinator shall assess demographic data, review data obtained from contracted language access services, and consult with community-based organizations in order to process these decisions. Based on this review, the Services Manager will determine whether to recommend that the Burnsville Police Department make specific revisions to this policy. The Services Manager, along with the LEP Coordinator, will also review existing and new documents to determine which vital or non-vital documents should be translated.

### 321.4 FOUR-FACTOR ANALYSIS

Federal MODIFIED

Since there are potentially hundreds of languages Burnsville Police personnel could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice LEP Guidance to Federal Financial Assistance Recipients, available at <http://www.lep.gov>, in determining which measures will provide reasonable and meaningful access to various rights, obligations, services and programs to everyone. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis must remain flexible and requires an ongoing balance of the following four factors:

- (a) 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 jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with Department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

### 321.5 TYPES OF LEP ASSISTANCE AVAILABLE

Federal MODIFIED

Burnsville Police personnel will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services. LEP individuals may choose to accept Department-provided LEP services at no cost or they may choose to provide their own. When considering the need for interpreting/translating services, police personnel will assess the seriousness of the matter, including the nature of any potential criminal charges. Department personnel should document in any related report the types of interpretation or translation services provided to any LEP individual.

- (a) **Interpretation and Translation Services:** The Department will utilize all reasonably available tools, such as smartphone Apps, Language Line, or other translator/interpreter services when attempting to determine an LEP individual's primary

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language and to provide interpretation and translation services. Language Line or other interpreter services may be utilized for telephone calls as well as assisting LEP individuals in person using speakerphone or handing the phone back and forth.

- (b) **Bilingual Staff:** Bilingual Department and City employees sufficiently qualified to communicate in a non-English language may volunteer to be utilized for LEP services. The City of Burnsville does not require certifications nor does it test its volunteers on their language fluency, but need only have a competent understanding of the language involved either through their own family heritage or training. The Burnsville Police Department will take reasonable steps to develop in-house language capacity by hiring or appointing qualified members proficient in non-English languages
- (c) **Family, Friends and Bystanders:** When competent bilingual Department personnel are unavailable to assist, responsible family, friends or bystanders may be called upon to interpret in very informal, non-confrontational situations, and only to obtain basic information. Using family, friends or bystanders to interpret could result in a breach of confidentiality, a conflict of interest, biased assistance, or an inadequate interpretation. An alleged offender should not be used as an interpreter. Barring exigent circumstances, police personnel should not use minor children to provide interpreter services. Department personnel shall make case-by-case determinations on the appropriateness of using such individuals.

#### **321.6 PUBLIC SIGNAGE AND WRITTEN FORMS**

**Federal** **MODIFIED**

Public information will be provided to LEP individuals via lobby signage and/or a wall-mounted monitor with a continuously looping power-point presentation. Posted information will be translated in the top language(s) most likely to be encountered and will include how to obtain emergency and non-emergency assistance along with fees for reports and permits. Multi-language signage will also be posted in the booking area providing essential information concerning prisoner rights and booking procedures. The department will arrange to translate the most vital and frequently used documents into the top language(s) most likely to be encountered. Translated forms are available in the forms cabinet.

#### **321.7 CONTACT AND REPORTING**

**Federal**

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members 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.

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### **321.8 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

**Federal** **MODIFIED**

To provide LEP individuals with meaningful access to law enforcement services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, department personnel will make every reasonable effort to promptly accommodate such LEP individuals through any or all of the above resources. While emergency situations 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.

### **321.9 FIELD ENFORCEMENT**

**Federal** **MODIFIED**

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 interpretation services to all involved LEP individuals and utilize the methods outlined above to provide appropriate language assistance. Although not every situation can be addressed in this policy, it is important that department personnel are able to effectively communicate with an LEP individual the reason for a contact, the need for information, and the meaning or consequences of any enforcement action taken.

### **321.10 INVESTIGATIVE FIELD INTERVIEWS**

**Best Practice** **MODIFIED**

In any situation where an interview may contain information that could be used as the basis for arrest or prosecution of an LEP individual and a bilingual department member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter via Language Line or other interpreter service 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. Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter.

### **321.11 CUSTODIAL INTERROGATIONS**

**Federal** **MODIFIED**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. (M.S.S. § 611.32) Only authorized interpreters via Language Line or other interpreter service should be used during custodial interrogations. Personnel should not rely on individuals with self-identified foreign-language ability. If prior to an interrogation or taking a statement it is determined that the person is disabled in communication of the English language (M.S.S. § 546.42) then prior to the interrogation or taking the statement of the person disabled in communication, the arresting officer or other law enforcement official shall make

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available to the person a qualified interpreter to assist the person throughout the interrogation or taking of a statement. (M.S.S. § 611.32)

In order to ensure that interpretations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

#### 321.11.1 OTHER TIMING AND NOTIFICATION MANDATES

State **MODIFIED**

The investigating or arresting officer shall immediately make necessary contacts to get an authorized interpreter for an in-custody LEP person at the earliest possible time in order to assist the person throughout the interrogation or taking of a statement. This applies even when the interrogation will be conducted by a bilingual member (Minn. Stat. § 611.32).

The following shall be explained to the LEP person with the assistance of the authorized interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the LEP person
- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the provisions of the Asset Forfeiture Policy:
  - (a) The possible consequences of the seizure
  - (b) The person's right to judicial review

#### 321.12 BOOKINGS

Federal **MODIFIED**

When gathering information during the booking process, officers shall remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Department personnel should seek the assistance of a bilingual member 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.

#### 321.13 COMPLAINTS

Federal **MODIFIED**

Any LEP individual who wishes to file a complaint with the Burnsville Police Department regarding language access or the discharge of departmental duties shall be provided assistance in their primary language through a bilingual staff member or a language assistance service such as Language Line.

Investigation into such complaints shall be handled in accordance with Department policy. Written notice of the disposition of any LEP complaint will be provided in the complainant's primary language.

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### **321.14 COMMUNITY OUTREACH**

#### **Best Practice**

Community outreach programs and other such services offered by this department are 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.

### **321.15 TRAINING**

#### **Federal**

#### **MODIFIED**

In an effort to ensure that all Department employees in public contact positions are properly trained, the Department will provide periodic training to personnel utilizing Briefing Trainings, Training Bulletins, the Field Training Officer Program, and annual mandated training concerning LEP policies and procedures, including how to access Department-authorized telephonic and in-person interpreters and other available language resources.