

ESSEX POLICE DEPARTMENT
Operational Directive



	Number: 1.3
Limited English Speaking Persons	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amends <input type="checkbox"/> Rescinds
Authorized Signature: _____ Chief of Police	
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Date Implemented: 07/21/20	Review Date: 01/01/2022

- Purpose:** The purpose of this policy is to direct this agency's operational procedures when dealing with persons of Limited English Proficiency (LEP) while maintaining compliance with state and federal law. Under Title VI of the Civil Rights Act of 1964, the Omnibus Crime Control and Safe Streets Act of 1968, and the Vermont Public Accommodations Act, officers are required by state and federal law to ensure adequate and appropriate communication services. Title VI of the Civil Rights Act of 1964 reads:

*No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
42 U.S.C. § 2000d. These communications services must be free of charge and must not discriminate against any person. Failure to provide those services is a violation of the law.*

- Policy:** It is the policy of the Essex Police Department to provide equal protection and service to all persons. Toward this end, the agency recognizes that officers will have contact with individuals who have limited English proficiency and will take steps to ensure that these individuals receive equal services and treatment. When an employee determines, or has been told in good faith, that a person may be incapable of effective communication, the employee should provide proper interpretation services as soon as practical.

3. Definitions:

- 3.1. **Limited English Proficiency Individual:** Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." These individuals may be entitled to language assistance with respect to law enforcement services.
- 3.2. **Bilingual:** Fluency in two languages and able to conduct law enforcement operations in either of the two languages.
- 3.3. **Interpretation:** The immediate spoken communication of meaning from one language (the source language) into another (the target language).
- 3.4. **Translation:** Convey meaning from one language in written text into another language in written text.
- 3.5. **Certified Interpreter:** A certified interpreter is an interpreter who is certified as competent by a professional organization or government entity through rigorous testing based on appropriate and consistent criteria.
- 3.6. **Qualified Interpreter:** A qualified interpreter is an individual who has been assessed for professional skills, demonstrates a high level of proficiency in a language and has the appropriate training and experience to interpret with skill and accuracy.

4. Procedure:

- 4.1. **Agency responsibilities regarding training:** The agency will uphold this language access plan in its entirety, and all sworn members as well as non-sworn members having public contact shall be trained regarding the language access plan with an emphasis on how to utilize the available resources. This training will include the following components:
 - 4.1.1. **New officer training:** The agency will provide in-house training to all new officers and employees.
 - 4.1.2. **Annual refresher training:** The agency will provide an annual refresher on this language access plan.
- 4.2. **Staff responsibilities:** Successful police contact with citizens is characterized by effective communication between the police employee and citizen, whether a suspect, victim, or witness. Sworn and non-sworn personnel shall take all reasonable steps to provide services to persons of limited English proficiency. Not all interactions with LEP persons require translation services. Police employees interacting with persons of limited English proficiency will ensure that they are able to communicate pertinent information, whether in person or by phone. If an employee perceives a language barrier, they shall make all reasonable efforts to minimize confusion with the individual and accommodate the individual's needs.
 - 4.2.1. **Traffic stops or ordinance violations:** Routine motor vehicle stops and the issuance of traffic citations or municipal ordinance violations will not normally require services of a qualified interpreter. In situations where the need to obtain only basic information, such as address or date of birth, is needed, an officer may utilize family, friends, or bystanders. Officers are expected to be aware of potential inadequate interpretation by these sources. *The officer may not ask a passenger in the vehicle to interpret the violation.*
 - 4.2.2. **Criminal investigations in which an individual is a suspect, victim or witness:** In accordance with the Department's Directive for Criminal Investigations, officers are

expected to obtain the most accurate statements possible. Whenever an officer, based on their perceptions or knowledge, becomes aware of a suspect/witness/victim who is unable to clearly and concisely communicate, every attempt to obtain appropriate translation and interpretation services should be exhausted. The field supervisor is to be notified immediately. The Field Supervisor is responsible for locating in-person, video, or telephonic services for translation resources. If an interpreter is not available, the officer will offer the victim or witness the option to provide a final statement with the officer and an interpreter at a later date.

4.2.3. **Situations involving Miranda warning and/or obtaining a formal, sworn statement:**

Whenever an individual suspected to have limited English proficiency is in any situation requiring “knowing” and “voluntary” actions of that person, or a situation where the suspect’s or witness’s legal rights could be adversely impacted, an officer shall only use an appropriate, qualified interpreter, and this shall be in person or via video conference. Whether in person or via video conference, the officer shall record the interpreter’s name and company affiliation and the interpreter’s arrival and departure time. Whenever possible, preference is to also have any interactions with an officer, individual and interpreter audio and/or video recorded. During booking/processing, if the arrestee requests the services of an interpreter, the officer/employee must attempt to contact a certified interpreter for immediate services by following the procedures set forth in this directive.

4.2.4. **Affidavits:** As a general matter, officers shall utilize video or telephonic services for translation in the course of preparing affidavits. For lengthy affidavits or affidavits taken in the course of highly sensitive investigations, officers are encouraged to utilize in-person translation services.

4.2.5. **Exigent circumstances:** All personnel are expected to utilize authorized interpretation services; however exigent circumstances may require some deviations. In such situations, personnel are to use the most reliable, temporary interpreter available, to obtain immediate pertinent information. However, once an exigency has passed, all personnel are expected to revert to the general procedures outlined in this Directive.

4.2.6. **Use of family, friends and minors for interpretation:** Family, friends, and minors should only be used for interpreting in non-confrontational, informal situations and only to obtain basic information. Use of family or friends may result in a conflict of interest, breach of confidence, or inadequate/inaccurate interpretation. Except in exigent circumstances, minor children should not be used to provide interpreter services in any criminal investigation.

4.2.6.1. The individual of limited English proficiency has the right to choose to use a friend or family member to supplement any interpreter chosen by the police, or to hire their own professional interpreter at their own expense. In any such circumstance the expressed choice should be documented by the officer and the identity of any such supplemental interpreter recorded in the officer's report.

5. Department Resources:

5.1. Language Line Interpretation Services:

- 5.1.1. The Essex Police Department maintains an agreement with the Winooski Police Department for interpretation services.
- 5.1.2. Use your phone's conference feature to place the Limited English Proficient (LEP) speaker on hold.
- 5.1.3. Dial ###-###-#### for Spanish Language or ###-###-#### for all other languages
- 5.1.4. Provide your Client ID # ####
- 5.1.5. Provide your Client Access code # ####
- 5.1.6. Specify the language you need
- 5.1.7. You will be connected to an interpreter who will provide his/her name and ID number.
- 5.1.8. Brief the interpreter. Summarize what you wish to accomplish and provide any special instructions.
- 5.1.9. Add the LEP onto the call.
- 5.1.10. Say "End of Call" to the interpreter when your call is completed.
- 5.1.11. EPD members will contact Winooski Police to inform them of the use.
- 5.1.12. EPD members will notify the Administrative Assistant that they used the service and what the case number is.

5.2. Certified Sign Language Interpreters: The following options should be followed when an officer/employee needs the services of a certified sign language interpreter:

- 5.2.1. Monday - Friday, 8:00 AM - 4:00 PM, contact the Vermont Interpreter Referral Service (VIRS) at ###-###-####.
- 5.2.2. After business hours, contact the nearest interpreter directly using the emergency list attached to this directive, or <http://www.virs.org> for an updated emergency list. An official updated list is also located at <http://www.vocrehab.vt.gov> under "Resources."

6. Complaints and Violations of this Policy

- 6.1. Complaints from citizens in regards to violations of this policy and subsequent investigations will follow the procedures outlined in the Essex Police Department Directive titled 'Internal Affairs.'