

**SUMMIT COUNTY
SHERIFF'S OFFICE
&
CITY OF LORAIN
POLICE DEPARTMENT**



THE SUMMIT/LORAIN PROJECT

*Resource Document for Law Enforcement:
Interpretation and Translation Services*

TO SERVE AND PROTECT ALL

MODEL POLICIES AND PROCEDURES
FOR LAW ENFORCEMENT OFFICERS
TO SERVE AND PROTECT
LIMITED ENGLISH PROFICIENT PERSONS

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THE SUMMIT/LORAIN PROJECT

INTRODUCTION

As the non-English or limited-English speaking population continues to increase in the state of Ohio and nationwide, the number of non-English speaking defendants, victims, and witnesses processed through the Ohio criminal justice system will also increase. Our legal system can and must overcome language barriers when they arise. On the local and national levels, we need to take a closer look at policy and administrative rules pertaining to legal interpreters and translators; qualification, certification and ethics for interpreters working with law enforcement and the justice system; and training for interpreters, law enforcement personnel and the legal profession. All situations and circumstances involve issues of constitutional proportion which if not addressed can substantially weaken law enforcement efforts and the reliability of the judicial system.

A uniform standard policy for law enforcement will not only help serve and protect the non-English and limited English proficient (LEP) population equally, but will also lead to appropriate interactions between law enforcement, the courts, legal professionals, and judiciary interpreters. Due process, public safety, and equal access are fundamental to our country's legal system.

Lack of a well thought-out policy or sloppy standards toward language services can have negative consequences. Inaccurate information may form the basis for investigations or prosecutions, LEP persons may fail to follow directions of law enforcement agents, suspects may escape prosecution, or strong cases may get thrown out of court for procedural reasons. Just as 9/11 taught us that coordinated, accurate communication within local police agencies and in interaction with other agencies is crucial, it has become obvious that language services represent an important area to fortify so as to ensure public safety. No department can know what important information or lead will be presented in what language. Being prepared is essential so as not to waste valuable time and resources.

Federal and state laws, professional association standards, and case law govern the appointment, qualifications, role, ethics and professional responsibilities of interpreters in legal and quasi-legal settings. These laws and procedures apply to citizens and legal residents of the United States as well as to undocumented individuals charged in a criminal case.

Interpreters and translators are language professionals whose expertise has been developed through years of training and practice. Except for basic intake, as a rule bilingual agents should not be pressed into service as interpreters or translators without prior skill testing. Just as police officers are not necessarily detectives, bilingual speakers are not automatically accurate translators. In the criminal justice system, including quasi-legal settings, the use of certified and qualified interpreters is of the utmost importance.

The federal courts as well as many states have implemented the highest policy standards for language service in their courts.

In the law enforcement arena, a person's life, liberty, health, property, and safety can be at stake. The policies and procedures suggested herein aim to ensure the safety of police officers, victims, bystanders and other civilians.

Our committee consists of seasoned professionals in many fields. Only attorneys can provide expertise in the law. Police officers provide expertise in enforcement practice on the streets and in precinct houses. Likewise, whenever entities develop policies and procedures related to language service, it is essential that language specialists such as interpreters, translators and linguists participate in policy development. It is also important to have the immigrant community input. Our committee has representatives from all of these areas of expertise.

These proposed policies and procedures will assist law enforcement in understanding the laws and protocols in working with non-English or limited-English persons, defendants, victims, or witnesses. This document aims to assist law enforcement agencies in creating workable policies and standards in their own jurisdictions. Our conclusion can be summed up as: "Having incompetent language service is tantamount to having no service at all."¹

On August 11, 2000 the President of the United States issued Executive Order 13166, titled "Improving Access to Services by Persons with Limited English Proficiency." That same day, the Assistant Attorney General for Civil Rights Division of the United States Department of Justice issued a Policy Guidance Document, titled "Enforcement of Title VI of the Civil Rights Act of 1964-National Origin Discrimination Against Persons With Limited English Proficiency" (herein after referred to as "DOJ LEP Guidance Policy"). The DOJ Guidance Policy was prepared to help clarify Executive Order 13166. This action was prompted by an increase in the LEP population and recognition at the highest levels that for LEP individuals, language can be a barrier to accessing important services.

It is the responsibility of all federally funded recipients to make sure that the LEP population is not denied access to services or to information about services. Competent language assistance (when needed) is part of this access. It is strongly recommended that all federally funded recipients have a language assistance plan for obtaining and providing language services and that information about such services be prominently displayed.

DOJ Guidance Policy also counsels against using children, family, and friends for language assistance in any situation where constitutional rights, life, liberty, health, property, and important services to the LEP are at stake. The only times when friends, family or children may be used are for an immediate emergency, eminent danger to the LEP person, law enforcement, and/or civilians while waiting for a qualified interpreter to be contacted or to arrive at the scene.

¹ Handbook for the Legal Profession, National Association of Judiciary Interpreter and Translators

It is inappropriate for children, friends and family members to provide language assistance for several reasons. First, these individuals are not neutral parties, were not tested for language proficiency, are not trained in legal interpreting and translating, may not know the limitations of their role, and may have an interest in the outcome of the case, or be potential suspects themselves.

The Summit County Sheriff's Office and The City of Lorain Police Department recognize that they serve a diverse community consisting of people from many national origins. When dealing with LEP persons, the Summit County Sheriff's Office and The City of Lorain Police Department shall provide interpreter services consistent with Title VI of the Civil Rights Act, Executive Order 13166, DOJ Guidance Policy, and other federal and state laws, respecting the standard professional practices of judiciary interpreters and translators.

OVERVIEW

The demands on law enforcement and the tools needed to accomplish our mission have changed over time. Competent language services for state and national police forces in the United States have become a crucial component in 21st century law enforcement.

The LEP Model Program for Law Enforcement was initiated in the State of Ohio through the Summit County Sheriff's Office. A committee was formed to study the provision of language services and develop standard practice routines for interaction by law enforcement with limited English persons. This committee (known as the Law Enforcement Committee) brought together stakeholders and area experts within the criminal justice system including law enforcement officers, prosecutors and criminal defense attorneys as well as experts from the immigrant community assisted by an advisory board of language professionals.

While effective and well-administered translation and interpretation services are vital to the interests of the criminal justice system, and necessary to both prosecutors and defense attorneys, law enforcement agencies have a similar vital need of such services: without them, officer safety may be imperiled, investigations may be compromised, the administration of the justice system may suffer, and the resolution of cases may be unreliable.

Recognizing that language barriers affect law enforcement nationwide, we hope that the committee's project results can be applied elsewhere. The policy was conceived to be both substantive and practical so as to serve as a model for other states.

LAW ENFORCEMENT COMMITTEE HISTORY

Volunteer Initiatives

The Law Enforcement Committee got its impetus from Isabel Frammer, a Spanish interpreter practicing in the Akron, Ohio area who for the past eight years has researched interpretation policy issues in Ohio and throughout the country.

In 1996 Frammer began assisting Ohio's efforts to build an interpreter certification program. In 1997 she founded a local interpreters association, Community and Court Interpreters of the Ohio Valley (CCIO). Upon discovering that Ohio had no standard credentials for court interpreters, Frammer researched credentialing in other states. She eventually became court certified in Oregon and Tennessee.

Through the National Association of Judiciary Interpreters and Translators, NAJIT, whose membership includes active interpreters of many languages, non-profit organizations, corporations and others interested in court interpreting, Frammer headed an advocacy committee. This advocacy committee coordinated, compiled and disseminated information on the provision of competent interpreter services to courts and law enforcement agencies throughout the country.

In 2000 Frammer was asked to work with Ohio's Racial Fairness Implementation Task Force, which developed a plan to establish statewide interpretation standards, including a code of conduct for interpreters and training for judges, referees and court administrators on the proper use of language services in the judicial system.

Years of volunteer work on interpreter policy and training issues led her to seek ways of collaborating with law enforcement.

Need for LEP Policy for Law Enforcement

As a national association's contact person for LEP issues, Frammer regularly received inquiries from individuals, advocacy groups, and state and federal entities regarding interpreter protocol and procedure. In 2003, as a result of receiving repeated inquiries about LEP policies for law enforcement, she undertook a nationwide search for law enforcement entities with well-articulated LEP policies. She found that most policies were not in writing or were incomplete. When the mayor's office of a large U.S. city called her to request information regarding LEP policy and procedures for law enforcement, Frammer realized that even metropolitan cities with large limited English proficient populations needed assistance with policy development.

Good Community Relations: A Sheriff and Police Chief Respond

Following a local incident when an inmate's medical condition was overlooked due to language barriers, Framer approached Drew Alexander, Sheriff of Summit County, who immediately issued guidelines to division heads regarding the manner in which the jail should handle all LEP matters. Alexander's understanding and sensitivity led Framer to suggest collaborating to develop a model LEP Program for his jurisdiction.

The Sheriff welcomed the idea; however, since the LEP population in Summit County is not significant, input from a city with a larger LEP population was needed. Chief Celestino Rivera of the city of Lorain Police Dept., who had served on the Ohio Supreme Court Interpreter Services subcommittee, was sensitive to interpreter services because Lorain has one of the largest LEP populations in Ohio and agreed to collaborate. The International Institute of Akron, Inc., a non-profit social service agency, advocating on behalf the foreign born joined the committee representing the local immigrant community. In March 2003 the project was initiated and became the Summit County Sheriff and City of Lorain Police Department LEP Interpreter Services Model Program for Law Enforcement, the Summit/Lorain Project.

Advisory Board of Language Experts

The next step was to form an advisory board. Since further discussions indicated a desire to develop a model LEP Program that could be implemented not only in Ohio but throughout the United States, Framer brought together a national group of top language professionals to advise and work with law enforcement. The language professionals, recognized experts in the interpreting community, collectively have decades of experience in interpreting, translating, research, training, policy and administration. To our knowledge, no other law enforcement entity has had the benefit of an advisory board of this caliber to aid in LEP policy development, and that is what made this project unique.

Committee Expansion

The committee expanded from a local to a statewide level. Chief Rivera contacted Karen Huey, Director of the Ohio Criminal Justice Services (OCJS). OCJS in turn recruited additional law enforcement chiefs and sheriffs from Ohio ranging from Cincinnati, Seneca County, Columbus and Bedford Heights.

Committee Activities

The Summit/Lorain Project got underway with abundant good will and no funding. Communication was established through email and meetings took place via conference calls every few months. Several entities were approached for technical support. The International Institute of Akron provided support for the first conference call, and CCIO provided for the second conference call. Language Line provided technical support for all subsequent conference calls.

After the first telephone conference, the Committee drafted a list of issues to be reviewed, 42 points requiring short or long-term solutions.

The Committee's work began with a mission statement and survey. A teletype was sent to all Ohio Law Enforcement Agencies inquiring as to existing LEP policies. Only one incomplete response was received. Chief Rivera conducted a search through a police data base and found that the only existing policies were for interpreters for the deaf and hard of hearing.

Department of Justice Interest

Around this time, United States Assistant Attorney General for Civil Rights, Alexander Acosta, began searching for interpreter services LEP model policies and procedures for law enforcement, and became aware of the committee's initiative. He expressed interest in observing our work. Staff Attorneys of the Civil Rights Division of the Department of Justice were invited to attend our telephonic meetings.

Developing Law Enforcement Scenarios for Draft Manual

As the Committee brainstormed, it considered every kind of law enforcement scenario, including: civilian inquiries, fender benders, drunken brawls, breathalyzer tests, jail booking/medical intake, communication of jail rules, criminal reports, domestic violence situations, undercover work, drug trafficking, hostage situations, crowd control, and so forth. Each point of interaction between law enforcement and LEP persons and the necessary level of language assistance had to be analyzed. The Advisory Board needed to understand the crucial aspects of each interaction in order to identify the desirable language expertise.

The Committee tracked all published articles about interpreter services, with special attention to instances of ineffective service, and reviewed existing laws or policies governing the provision of such services.

An initial strategy was to deal with different issues by dividing into teams, each team to consist of an attorney, a law enforcement officer and an interpreter, but this approach proved unwieldy. Finally, the Committee created two sub-committees, one sub-committee took on the task of creating a list of types of interactions between law

enforcement and LEP persons, while another sub-committee sought technical support and funding opportunities. One sub-committee member, Dr. Gregory Shreve, Director for Applied Linguistics, Kent State University, provided externs to conduct phone surveys of Ohio and other state law enforcement entities regarding their use of interpreters and translators. The Externs were also responsible for conducting additional interviews with law enforcement officials to continue developing the points of interaction between law enforcement and LEP persons and for preparing the minutes from all meetings.

Combined efforts produced a first draft of our policy and procedures manual. Comments from the entire Committee were solicited and Advisory Board Members edited, incorporating changes to produce a final draft.

Multilingual Booklet for on-the-scene Police Officers

The Summit County Sheriff's Office proposed creating a booklet with language identifications ("I speak Farsi," etc.) and descriptive graphics, for use by on-the-scene police officers. The *Flash Card Communications Booklet* was inspired by the U.S. Census 2000 multilingual language identification flashcard, the Language Line language identification card, and a multilingual booklet prepared by the St. Louis Police Department in conjunction with the International Institute of St. Louis.

Long-Term Goals

The Committee concluded that more steps would be required after developing model policy; for long-term goals, funding would be necessary. Long-term goals were broken down into three phases: Phase One, to create a model policy in a format that every law enforcement agency throughout the United States could use and implement in their department. Phase Two, to create a *Flash Card Communications Booklet* with a comprehensive list of languages spoken throughout the United States and other tools for law enforcement to use when they encounter a LEP person, including Miranda Warning cards in various languages as well as other forms and documents. Phase Three, to implement the model program, and most importantly, train law enforcement, train facilitators, as well as recruit and train interpreters (of many languages) to work with law enforcement.

Law Enforcement Survey and Report

Survey Questionnaire on Law Enforcement Access to Language and ASL Interpreter Services

Please indicate your name and your jurisdiction information, and then fax it or mail it back to Summit County Sheriff's Office, Attention Bev Dial, 53 University Avenue, Akron, Ohio 44308.

Please type or print information clearly. Thank you for your participation in this project.

1. Does your agency have standard operating procedures in place for language interpreters?
YES ___ NO ___

2. Does your agency have standard operating procedures in place for ASL interpreters?
YES ___ NO ___

3. Would your agency like to have clear policies on working with and hiring interpreters?
YES ___ NO ___

If not, why? _____

4. Do you feel access to such policies is relevant for officer safety?
YES ___ NO ___

If not, why not? _____

5. Should law enforcement receive training on working with interpreters and interpreter protocol?
YES ___ NO ___

If not, why? _____

6. How often do you use interpreters in a year for the following (give billable hours, if possible).

	1-20	20-40	40-60	60-100	over 100
American Sign Language (ASL)					
Arabic					
Bosnian					
Cantonese					
Croatian					
Hmong					
Korean					
Laotian					
Mandarin					
Russian					
Serbian					
Somali					
Spanish					
Vietnamese					
All others combined					

7. Considering the points of contact below, how often does your agency use the services of an interpreter?

Domestic Violence	___%
Roadside stops	___%
Arrests	___%
Police interrogations	___%
Hostage situations	___%
Booking	___%
Police Investigations	___%
Witness interviews	___%
Other Miscellaneous	___%
Total	100%

8. How do you select the foreign and ASL language interpreters (Check all that apply)

- _____ List from other counties
- _____ Referrals from other Interpreters
- _____ Language Agencies
- _____ Court lists
- _____ Other (Please specify)

9. Do you inquire about interpreters' qualifications?

YES ___ NO ___

If so, what steps do you take to ascertain their qualifications. (Check all that apply)

- Request references
- Request certificates, licenses, or diplomas
- Referral verification
- Criminal background check
- Other (Please specify)

10. Were the interpreters used knowledgeable about law enforcement work?

YES ___ NO ___

11. Did they have to be briefed?

YES ___ NO ___

If yes:

By whom? _____

For how long? _____

What did they lack knowledge of? _____

What points were stressed in dealing with their orientation?

12. Were you ever not able to produce an interpreter either timely or at all?

YES ___ NO ___

If yes, what were the circumstances?

13. Does your agency use "over-the-phone" interpreters as provided by services like Language Line?

YES ___ NO ___

a) If yes, what types of situations were they used for? (Please specify)

- 911 Calls
- Domestic Violence calls
- Other (Please specify)

b) Was this service adequate for your needs?

YES ___ NO ___

c) If no, what were the problems?

14. Does your agency have bilingual officers?

YES ___ NO ___

If yes, check all that apply:

- American Sign Language (ASL) _____
- Arabic _____
- Cantonese _____
- Hmong _____
- Korean _____
- Laotian _____
- Mandarin _____
- Russian _____
- Serbian _____
- Somali _____
- Spanish _____
- Vietnamese _____
- Other (List other) _____

How is language proficiency of bilingual officer determined (e.g. testing)?

15. How many times in the past year have you used bilingual officers as interpreters?

a. List the number of times by language.

	1-20	20-40	40-60	60-100	over 100
American Sign Language (ASL)					
Arabic					
Bosnian					
Cantonese					
Croatian					
Hmong					
Korean					
Laotian					
Mandarin					
Russian					
Serbian					
Somali					
Spanish					
Vietnamese					
All others combined					

b. Provide a breakdown of the circumstances (by %) for which officers were used as interpreters.

Domestic Violence	___%
Roadside stops	___%
Arrests	___%
Police interrogations	___%
Hostage situations	___%
Booking	___%
Police investigations	___%
Witness interviews	___%
Other Miscellaneous	___%
Total	100%

16. Has your agency ever had a problem with language interpreters because of quality of interpretation rendered? YES ___ NO ___

Common complaints (Check all that apply)

- Heavy accented English
- Insufficient competence in the foreign language
- Interpreters carrying on conversations with the non-English speaker instead of interpreting all of the information.
- Problems with interpreter's advocacy towards a victim, witness, or defendant.
- Other (Please specify)

17. Does your agency use any of the following as interpreters: (Check all that apply)

- Clerks
- Janitors
- Jail personnel
- Inmates
- Family members of detainees, victims or witness
- Friends of detainees, victims or witness
- Law enforcement officers
- Other law enforcement personnel
- Other (Please specify)

If any of the above were checked, how often? _____

18. Please share any other thoughts on working with language and ASL interpreters

Law Enforcement Agencies Surveyed

#	<u>State</u>	<u>Location</u>	<u>County</u>	<u>Population Served</u>	<u>Size (Number of Officers)</u>
1	Alabama	Daphne	Baldwin	16,500	39
2	Alaska	Kotzebue	Northwest Arctic	3,500	9
3	Arizona	Scottsdale	Maricopa	229,340	360
4	Arkansas	Jacksonville	Pulaski	30,220	53
5	Colorado	Pueblo	Pueblo	103,400	194
6	Colorado	Broomfield	Broomfield	38,272	200
7	Colorado	Pitkin	Gunnison	124	27
8	Connecticut	Hartford	Hartford	131,995	460
9	Delaware	Newark	New Castle	27,000	60
10	Florida	Bay Harbor Isl.	Dade	5,000	23
11	Georgia	Bainbridge	Decatur	11,255	45
12	Hawaii	Honolulu	n/a	873,000	2,034
13	Idaho	Moscow	Latah	20,000	31
14	Illinois	Bartlett	Cook	37,843	49
15	Indiana	Indianapolis	Marion	380,302	1,288
16	Louisiana	Baton Rouge	East Baton Rouge	238,297	676
17	Maryland	Annapolis	Arundel	34,728	121
18	Massachusetts	Boston	Suffolk	604,000	2,050
19	Michigan	Cambridge	Lenawee	4,600	67
20	Minnesota	Nashwauk	Itasca	1,026	4
21	Mississippi	Tupelo	Lee	45,000	114
22	Missouri	Ballwin	Cass	28,000	49
23	Nevada	Las Vegas	Clark	18,000	37
24	Nevada	Las Vegas	Clark	499,297	2,353
25	New Jersey	Newark	Essex	275,000	1,500

#	State	Location	County	Population Served	Size (Number of Officers)
26	New York	Buffalo	Erie	328,500	1,000
27	North Carolina	Rocky Mountain	Nash	58,000	156
28	Ohio	Mogadore	Summit	4,000	9
29	Ohio	Copley	Summit	13,000	26
30	Ohio	Akron City Police department	Summit	217,074	24
31	Ohio	Akron, University Police department	n/a		
32	Ohio	Akron, Summit County Sheriff's office	Summit	542,899	33
33	Ohio	Lakemore	Summit	3,000	17
34	Ohio	Barberton	Summit	27,899	43
35	Ohio	N. Canton	Stark	15,000	40
36	Oklahoma	Hannah	Oklahoma	5,000	14
37	Oregon	Eagle Point	Jackson	7,200	9
38	Oregon	Warrenton	Clatsop	4,100	8
39	Pennsylvania	Fairless Hills	Bucks	35,000	51
40	Rhode Island	Johnston	Providence	28,200	72
41	S. Carolina	Columbia	Richland	126,925	312
42	S. Dakota	Minnehaha	Minnehaha	6,600	8
43	Tennessee	Berry Hill	Davidson	674	13
44	Texas	Canton	Van Zant	3,500	11
45	Utah	Logan	Cache	52,000	64
46	Virginia	Chesapeake	Independent City	208,799	365
47	Washington	Seattle	King	534,700	1,262
48	Wisconsin	Oak Creek	Milwaukee	25,000	44
49	Wyoming	Cheyenne	Laramie	75,000	90

Survey Responses

NOTE: The order of Respondents does not correspond to the order of Surveyed Agencies listed above.

SURVEY QUESTIONS 1 – 8 b)

Respondents	1) Standard operating procedures for foreign language Interpreters?	2) Standard operating procedures for ASL Interpreters?	3) Interested in having policies?	4) Would policy improve officer safety?	5) Should Law Enforcement receive training on working with interpreters?	6 a) Use interpreters?	6) – 7) How often (mo.)?	8) How do you select ASL or foreign language Interpreter?	8b) Other: please specify.
	1	2	3	4	5	6a	6-7	8	8b
1	Yes	no	yes	yes	Yes	yes	1.5	other	use their own officers
2	No	no	yes	yes	Yes	yes	30	other	Language agencies, Bilingual Officers
3	Yes	no	yes	yes	Yes	yes		other	Language Line, Bilingual Officers
4	Yes	yes	no	yes	Yes	yes	1000	other	language bank
5	No	no	yes	yes	Yes	yes		other	Air Force Base List, Bilingual Officers
6	Yes	no	yes	yes	Yes	yes	1	other	Language Line, Bilingual Officers
7	No	no	yes	yes	Yes	no			
8	no	no	yes	yes	No	yes	13	other	Language Line
9	yes	no	yes	no	No	yes	0.1	other	in-house list, sheriffs office
10	no	no	yes	no	Yes	yes	0.1	ct. lists, other	locals
11	no	no	yes	yes	Yes	yes	0.1	other	personal knowledge
12	no	no	no	no	Yes	no			
13	yes	yes	yes	yes		yes		other	in-house list, officers
14	yes	no	no		No	no		other	personal knowledge
15	yes	yes	yes	yes	No	yes		other	in-house list
16	no	no	yes	yes	No	no			
17	no	no	no		Yes	no			
18	no	no			No	yes			
19	no	no		yes		yes		other	911

	1	2	3	4	5	6a	6-7	8	8b
20	No	no			yes	yes		other	state hired
21	No	no	yes	no	yes	yes		other	court approved, language bank
22	No	no			yes	yes		other	University Language Dept.
23	No	no	yes	yes	yes	yes		other	University Language Dept.
24	No	no	yes	yes	yes	yes	0.1		
25	No	no	yes	yes	yes	yes		agencies and other	University Language Dept.
26	No	no	yes	yes	yes	yes	0.1	other	prosecutor's office
27	Yes	yes	no	no	yes	yes		agencies	
28	Yes	no	yes	yes	yes	yes	0.1	other	Language agency
29	Yes	no	yes	no	no	yes			
30	No	no	no	no		yes		other	in-house list, cultural centers
31	No	no	yes	yes	yes	yes	0.1	other	Language Line, local University
32	No	no	yes	yes		yes	34	other	Language Line, in-house list
33	No	no	no	no	no	yes	2.5	other	in-house list, community resources, Language Line
34	No	no	yes	yes	yes	yes	1	other	Language Line, bilingual officers, university
35	Yes	no	yes	yes	yes	yes		other	Language Line, bilingual officers
36	Yes	no	yes	yes	yes	no	4	agencies and other	bilingual officers
37	No	no	yes	yes	yes	yes	1.1	other	in-house list
38	No	no	no	yes	yes	no		other	city departments
39	Yes	yes	yes	yes	yes	yes		other	Language Line
40	No	no	no	yes	yes	no			
41	No	yes	yes	yes	yes	yes		other	friends or family, bilingual officers
42	Yes	no	yes	no	yes	yes		other	Language Line, bilingual officers
43	No	no	yes	no	yes	no			
44	No	no		yes	yes	yes	1	other	in-house list, family members
45	No	no	no	no		yes	0.5	agencies and other	Interpreter hotline
46	No	no	yes	yes	yes	yes	1	agencies	

	1	2	3	4	5	6a	6-7	8	8b
47	Yes	yes	no	yes	yes	yes	60	other, Language Bank	
48	Yes	yes	yes	yes	yes	yes		other, Interpreter's Bank, www.freetr anslation.co m	
49	No	no	yes	yes	yes	yes	1	other	screened

SURVEY QUESTIONS 9 – 13b

<i>Respondents</i>	<i>9) Inquire about interpreter's qualifications?</i>	<i>9a) How do you determine qualifications of Interpreter?</i>	<i>10) Were interpreters used knowledgeable about law enforcement work?</i>	<i>11) Had to be briefed?</i>	<i>12) Problems locating interpreter?</i>	<i>13) Use over-the-phone interpreting service?</i>	<i>13a) What situations?</i>	<i>13b) Was service adequate?</i>
	9	9a	10	11	12	13	13a	13b
1					no	yes		
2	No		yes		no	yes		
3			yes	yes	yes	yes	911, Dom. Viol.	yes
4	No		no	no	no	yes	roadside assistance	yes
5	No		yes	no	no	yes		
6					no	yes	those brought to jail	yes
7								
8	no		yes	yes		yes	911, Resident Assistance	
9	no		no	no	no	no		
10	yes	reputation, Sheriffs Office	no	yes	yes	no		
11	no		no	yes	no	no		
12								
13	yes	request qualifications	no	yes	no	yes		yes

	9	9a	10	11	12	13	13a	13b
14					no	no		
15	yes			yes	yes	yes		
16					no	no		
17								
18	no	observation			yes	no		
19	no		yes	yes	no	no		
20	no		yes	yes	no	no		
21	no		yes	yes	yes	no		
22			yes					
23	no		no	yes		yes	lost person	yes
24	yes		yes	yes	no	no		
25		agency referral	yes	no	yes	no		
26	no	referral verification through court	yes	yes	yes	no		
27	yes	resume		yes	no	no		
28	no	contracted agency's responsibility	yes	yes	no	yes	arrest incident	yes
29	no			yes	yes	yes		
30	no		yes		yes			
31	no		no	yes	no	yes	911	yes
32	yes	request qualifications	no	yes	yes	yes	911, non-emergency calls	yes
33	no		no	no	no	yes	emergency situations, interviews and interrogations	
34	no		no	yes	no	yes	all kinds	no
35	no		yes		yes	yes	arrests and booking	no
36	no				yes	no		
37	no		yes	yes	yes	no		
38					yes	no		yes
39	no				no	yes		

	9	9a	10	11	12	13	13a	13b
40								
41						yes		
42	no		yes	yes	no	yes	reporting crimes	yes
43								
44	no				no	yes	911 and domestic violence	yes
45	no		yes	yes	no	yes	arrests, crime victims	yes
46	no				no	no		
47		criminal background check, test for minimum qualifications	yes	yes	no	yes	field operation	no
48		criminal background check	yes	yes	no	yes	911, booking and advisement of right	yes
49	yes	Latino Liaison Officer			yes	yes		

SURVEY QUESTIONS 14 – 18

<i>Respondents</i>	<i>14) Does agency have bilingual officers?</i>	<i>14a) How do you test their language proficiency?</i>	<i>15a) Have used bilingual officers for communication with LEPs?</i>	<i>15b) What situations?</i>	<i>16) Experienced problems because of unqualified interpreter?</i>	<i>17) Ever used other people?</i>	<i>17) Who?</i>	<i>18) Other comments</i>
	14	14a	15a	15b	16	17	17	18 Other
1	yes	officer rates	yes	traffic stops	no	Yes	family, officers	
2	yes	not			no	Yes	family, officers	
3	yes	training program/ proficiency test			no	Yes	family, officers, police aides	
4	yes	not	yes		no			
5	yes	not	yes		no	Yes	clerk, jail personnel, officers	
6	yes	not	yes		no	Yes	jail personnel, inmates, family, officers, deputy sheriffs	

	14	14a	15a	15b	16	17	17	18 Other
7	yes	not						many tourists suggest that interpreting policies should be made
8	yes	not	yes		no	yes	clerks, officers, personnel	
9	yes	not	yes		yes	yes	family, officers	only need interpreters for homicide/child abuse type situations
10	no				no			only need interpreters for domestic violence type situations
11	no				yes	yes	family	
12	no							
13	yes	HR test	yes	training of both is important	no	yes	jail personnel, family, friends, officers, other law enforcement	
14	no	not	yes	runaways				
15	yes	not	yes		no	yes	family, friends, officers	
16	no							
17	yes		yes					
18	yes	not	yes		no	yes	dispatchers	
19	no				no			
20	no				no			
21	yes	not	yes		yes	yes	family, officers, dispatchers	
22	yes	seminars and classes						Sheriff's Department should implement language training. Survey of interested officers, "just enough to protect the officers".
23	yes	seminars and classes			no			
24	no	trust	yes	court and jail		yes	officers, dispatch	
25	no					yes	family	
26	yes	native of target language	no		no	yes	clerks, janitors, jail personnel, family, officers, other enforcement personnel	

	14	14a	15a	15b	16	17	17-who	18 Other
27	yes	assumed			no	no		more and more necessity as diversity increases
28	no	native of target language			no	yes	"anyone possible"	
29	yes	basic functional capacity				yes	officers	
30	yes	personal evaluation			no	yes	family, friends, officers, other enforcement personnel	
31	yes	not			no	yes	officers, other enforcement personnel	
32	yes	testing service for pay scale		yes	no	yes	family, friends, officers	
33	not	yes			no	yes	family, friends, officers and other enforcement personnel	participant doesn't believe in providing interpreting services at all. "They are here and they should know English"
34	not				no			
35	not				no	yes	clerks, janitors, family, friends officers, other enforcement personnel	
36	not	yes			no	yes	family, officers	
37	no				no	yes	officers	
38	no					yes	family, officers, other enforcement personnel;	
39	yes	some kind of testing			no	yes	family, friends, officers, other enforcement personnel and passers by	
40	yes	not	yes					
41	yes	not				yes	clerks, family, officers	
42	yes	not	yes		no	yes	officers	

	14	14a	15a	15b	16	17	17 -who	18 Other
43	yes	not	yes	investigations and interviews				This agency is in the process of developing interpreting policies in case they do come across a situation in the future. They currently have on bilingual officer (Spanish) and some Arabic. She is teaching a class that teaches the Spanish speaking community how the agency can help them and what they are doing to improve their services.
44	yes	not	yes		no	yes	family, friends, officers, other enforcement personnel	
45	yes	not	yes		no	yes	family, friends and other enforcement personnel	
46	yes	not			no	yes	officers, other enforcement personnel	have had come in and teach conversational Spanish class to their officers and in most cases that works
47	yes	incentive program	yes	all situations	no			
48	yes	immersion classes, officers are native	yes	traffic stops and crime scenes	no	yes	clerks, janitors, jail personnel, inmates, family members, friends, law enforcement officers, other enforcement personnel	
49	yes	Liaison Officer tests them	yes	traffic	yes	yes	clerks, janitors, jail personnel, inmates, family members, friends, law enforcement officers, other enforcement personnel	

Law Enforcement Survey July 2004 Report

Introduction

The object of the survey was to collect first-hand information from law enforcement agencies regarding the use of foreign language and ASL interpreters, as well as to determine what guidelines, policies, and procedures are currently in place or being applied throughout the nation.

Externs conducted telephonic interviews of law enforcement agencies to identify current practices in the use of interpreters for law enforcement. Externs were all Master's candidates in the Master's in Translation Program, Institute for Applied Linguistics, Kent State University, Kent, Ohio. Head extern Natasha Curtis worked with externs Mary Allcorn, Terry Biltz, and Jennifer Johnson.

The model document used to conduct the survey was approved and revised by the members of this Committee.

Methodology

The survey team targeted a wide range of agencies that would be representative of all agencies in the country. The survey was characterized by both a random and an intentionally planned factor. It was random in that the interviewers had no previous knowledge as to the status of the agency's policies and procedures. An official list indicating the name, jurisdiction, head official, population, and number of officers was utilized to seek information from a diverse group, including agencies serving a large population, with community resources that would be likely to attract LEP residents, as well as agencies which, due to the small size of the population they serve and the limited access to community resources, would not be likely to attract a large number of LEP residents.

Law Enforcement Agencies were classified in three groups or types: small (agencies with fewer than 10 officers), medium (agencies with 10+ and up to 100 officers), and large (agencies with 100+ officers). The chart below summarizes the agencies that participated in the survey. One extern was charged with the responsibility of contacting local and in-state agencies, and two other externs were charged with the responsibility of contacting out-of-state agencies. The head extern was responsible for compiling all findings and producing this report. When carrying out the survey, externs were particularly careful to alternate calls between the three stated types of agencies and efforts were made to obtain a random yet equally distributed report from agencies that may frequently use interpreters, as well as from those who never have, or seldom do.

Small	Medium	Large
Total No. surveyed including Ohio agencies: 6*	Total No. surveyed including Ohio agencies: 25	Total No. surveyed including Ohio agencies: 17

Survey Findings

Upon proper introduction and statement of survey purpose, interviewers asked if the agency had any standard operating procedures for foreign language interpreters and ASL interpreters. 84% of the participants reported no standard policy or procedure for ASL interpreters, and 67% indicated no standard operating procedures for foreign language interpreters. Although 16% of the agencies indicated that they did have a standard procedure for ASL interpreters, and 33% for foreign language interpreters, further questioning revealed that many were unable to articulate what the procedure consisted of. Some indicated that their standard procedure consisted of using family, friends, and bilingual officers to interpret in various situations, including but not limited to domestic violence, filing criminal reports, and court and jail communications. One agency established the use of a free translation website as their standard procedure. Many of the agencies that rely on bilingual officers for communication with limited LEP persons indicated, in a later question, that they had no procedure to verify the foreign language proficiency of their officers.

Interviewees were asked if they would be interested in obtaining model procedure guidelines should these be available to them. To this question, the overwhelming majority responded in the affirmative.

Participants who reportedly used interpreters in the past were unable to determine the percentage of interpreter usage by language. When asked about any qualification assessment of interpreters, the overwhelming majority of the interviewees indicated that they do not assess interpreter's qualifications. Only 9 of the 48 agencies contacted were able to specify the way in which they inquire about interpreter's qualifications. Of these, only two provided a response indicative of a reliable testing procedure.

Police questioning, roadside stops, domestic violence and jail bookings were the scenarios that reportedly required the most immediate need for interpreter services. However, many participants indicated that they did not use formally trained interpreters, but rather people that had shown some fluency in the language in question and were readily available. Among these persons were officers, secretaries, janitors, relatives of the victim, other inmates, or, as one of the interviewees indicated, "just about anyone on scene," and according to another participant, "even passers by." Some participants acknowledged problems in the past due to poor interpretation.

Agencies whose need for interpreters was not frequent did not consider it important to develop a standard procedure. However, they were quick to express an interest in a model policy, should one become available. They believed such policy would improve officer safety.

Among those who need and use interpreters frequently, there was a tendency to delegate the task of verifying interpreter qualifications to a person or institution other than the department or agency using the service. Upon further research, it was learned that in

Ohio, only one agency of all the local agencies surveyed actually verifies an interpreter's qualifications.

A large agency in Colorado, as well as others, indicated the need for training of law enforcement to "close the communication gap" due to the frequency in which officers come in contact with the LEP persons (many times daily).

In the light of the survey responses, there is no doubt about the need for a clear policy. Agencies were very receptive when asked about the possibility of having one. Improvement of officer safety ranks among the highest and most important factors in a model policy for the use of interpreter services. A Volunteer Interpreter Service Coordinator in Aurora did not take this lightly, for she was present during an incident when, an interpreter who showed up "just in time," she said, was able to collaborate with a police officer who was in danger of being shot at by an armed individual under the influence of a controlled substance.

Summary

The Summit/Lorain Project began by creating the necessary nexus between law enforcement, the courts, interpreters, and the LEP population.

Phase One now being completed, the Committee is proud to present the results of our efforts: an Interpreter Services LEP Model Program for Law Enforcement, a draft policy and procedure manual that represents the best thinking of law enforcement working in conjunction with language experts.

This packet includes our history, surveys, documentation and manual. Other law enforcement agencies may find our model useful for creating their own manuals of policies and procedures.

Phases Two and Three focus on implementation. Tools that law enforcement can use in their daily work need to be developed; we need to train and recruit interpreters; and in implementing the plan, we need to monitor suggested policies and procedures in order to identify problems and incorporate areas not previously considered.

We remain committed to our overall goal, to help remove language barriers so that the safety of officers and civilians is not jeopardized and that justice is served.



MISSION STATEMENT

Many citizens' initial contact with the judicial system, either as a victim, witness or defendant, begins with law enforcement personnel. Over the past decade, our courts and government have become increasingly aware of the importance of interpreter services for limited-English-proficient (LEP) persons.

Well-defined and established constitutional rights, Title VI and its accompanying LEP Guidance Policy mandating compliance from entities receiving federal funds, as well as directives from the Department of Homeland Security, all highlight the nexus between law enforcement and the judicial system. Equal access to our judicial system is dependent on law enforcement's recognition of this nexus.

In view of the need by law enforcement for standard practices regarding interactions with LEP persons, our mission is to develop and describe best practices, together with recommendations for their implementation.

LEGAL AUTHORITY & REFERENCES

FEDERAL AUTHORITY

United States Constitution

Title VI of the Civil Rights Act, Executive Order 13166, DOJ Guidance Policy

28 USC [Code of Federal Regulations] Section 1827

Americans with Disabilities Act (ADA), 42 U.S.C. [Code of Federal Regulations],

Volume 1, Public Health

Federal Rule of Evidence 604

Article 36 of the Vienna Convention on Consular Relations

Miranda v. Arizona (1966), 384 U.S. 436, 16 L.Ed.2d 694

Chapter XII, Federal Court Interpreters Policies and Procedures. Part B: Regulations of the Director of the Administrative Office of the United States Courts Implementing the Court Interpreters Amendments Act of 1988.

STATE OF OHIO AUTHORITY

The Constitution of the State of Ohio

Ohio Revised Code, Section 149.43 [“Public Records Act”]

Ohio Revised Code, Section 2311.14

Ohio Rule of Evidence 604

Ohio Supreme Court Canon of Ethics for Interpreters and Translators

Ohio Supreme Court; Proposed Rules of Superintendence in re: Interpreters

OTHER AUTHORITY & REFERENCES

Published CODES OF ETHICS by Professional Associations

Part C. Court Interpreter Ethics and Protocol.

National Association of Judiciary Interpreters and Translators

Community and Court Interpreters of the Ohio Valley

American Translators Association

Registry of Interpreters for the Deaf

DEFINITIONS

Direct Speech: The most important standard technique an interpreter uses, to take on the voice of each speaker and never interject himself in the communication by using the third person (“*He says that...*”) This permits the record to be accurate, avoids confusion, and enables all parties to communicate directly with each other as though a language barrier were not present. (See the NAJIT position paper on the subject matter at www.najit.org.)

Interpretation refers to the process of orally rendering communication from one language into another language. *Interpretation deals with oral or signed speech.*

[Note: In its Standard Guide for Language Interpretation Services, the American Society for Testing and Materials (ASTM) defines interpretation as “the process of understanding and analyzing a spoken or signed message and re-expressing that message faithfully, accurately and objectively in another language, taking the cultural and social context into account.”]

Modes of Interpretation: the techniques an interpreter uses to convey message content. The three permissible modes of interpretation in a legal, quasi-legal or medical setting are:

Consecutive: Message conveyance with a time lag. The interpreter waits for the question or statement to be finished before interpreting into the target language. Used generally for Q and A scenarios, interrogations or testimony. Consecutive is considered more accurate than simultaneous because the entire context is clear before the language conversion process begins.

Simultaneous: Message conveyance with no time lag. Interpreter renders a second language version at the same time as listening to the original. Can be provided in whisper format for one listener, or more commonly, provided with electronic equipment (interpreter microphone and listener headsets). This mode of interpretation is used during all court proceedings, for international conferences, at the United Nations, and in other organizations and agencies.

Sight Translation: the oral rendition of a written text from the source into the target language. (Generally, the interpreter has not had time to study the text but has made a cursory review.)

Summary Interpretation: also known as occasional interpretation, where the interpreter listens more than s/he talks, later deciding what and how to summarize. In legal, quasi-legal, and medical settings, the profession’s standards do not permit summary interpretation. Summary interpretation causes crucial information in interviews or

interrogations to be excluded. Untrained interpreters resort to this mode because they lack the skills for simultaneous or consecutive, are unfamiliar with terms, or cannot accurately reproduce the rate of speech and density of information.

Translation is the preparation of a written text from one language into an equivalent written text in another language. *Translation deals with written texts.*

NOTE: Interpretation and translation, while both language-related, are not identical disciplines. Each area requires expertise, content domain knowledge, training and practice. Credentialing is different for each area. Some practitioners are equally adept at both; others specialize in one discipline or the other. Although the public and media often use the terms interchangeably, in this report we use interpretation when referring to oral speech and translation when referring to written texts.

ABBREVIATIONS

- AOC:** Administrative Office of the Court
Administrative staff of the Ohio Supreme Court. (Note: may have a slightly different name in some states, such as Office of Court Administration)
- AOUSC:** Administrative Office of the United States Courts
As the administrative arm of the federal courts, the AOUSC provides information and guidelines to each individual U.S. District Court. The AOUSC certifies interpreters for federal courts via written ext oral examination and maintains a list of all certified and otherwise qualified interpreters. (J-Net, and www.uscourts.gov)
- ASL:** American Sign Language, the language most commonly used by deaf Americans, although not all deaf Americans communicate in this language. (Note: deaf persons from outside the U.S. do not communicate in ASL but in other types of sign languages particular to individual countries.)
- ATA:** American Translators Association
ATA is a national association comprising over 9,000 members. Their main expertise is in translations, but they also have a medical interpreting division. Many NAJIT members are also members of ATA. (www.atanet.org)
- CCIO:** Community and Court Interpreters of the Ohio Valley
CCIO is an Ohio and Ohio Valley interpreter association consisting of community, medical, and judiciary interpreters. (www.ccio.org)
- LEP:** Limited English-Proficient
The term LEP refers to those individuals who can speak some English but have limited proficiency.
- NAJIT:** The National Association of Judiciary Interpreters and Translators
NAJIT is a national association with approximately 1,000 members, the majority of whom interpret in legal and quasi-legal settings. Among its members are interpreters and translators with experience as trainers, experts in tape transcription and translation, document translation, interpreter ethics, legal interpreting protocol, and linguistic issues. (www.najit.org)
- RID:** Registry of Interpreters for the Deaf
RID is a national interpreter association for the deaf and hard of hearing. RID's association protocol conforms to the Americans with Disabilities Act (ADA). Rules pertaining to interpreters for the deaf and hard of hearing are available through RID. (www.rid.org)

SL: Source language, refers to the language of the original speech or text that is to be translated.

TL: Target language, refers to the language into which the original speech or text must be interpreted or translated.

Note: Source language and target language are relative terms and change with each circumstance, depending on the language of the original speech or text and the language into which it needs to be converted. For example, if a police officer gives instructions in English, English is the source language. If these instructions are to be conveyed to a Russian speaker, Russian is the target language.

T&T: Transcription and Translation
The process of preserving audio or video-taped conversations in written form, with a transcript of the entire original conversation together with its translation into the target language. Specialized skill, training and experience are required to produce accurate transcripts.

USCCI: United States Court Certified Interpreter
USCCI 's are certified by the AOUSC and identified by a certification number. The AOUSC maintains a national database of certified interpreters that is available to all district courts in order to verify certification and to facilitate contacting interpreters from other states.

INTERPRETER CREDENTIALING

ATA Certification: Certification test for written translations provided by The American Translators Association. ATA certification **does not cover** interpreters.

Certified Interpreter: Certified court interpreters are persons who have passed a National Center for State Courts Consortium test, or a Federal Court certification examination, or a NAJIT credentialing examination. [Note: these certification tests are not necessarily equivalent since certification criteria are different for each.]

Consortium State Court Certification: Standardized testing program for minimum competency to work as an interpreter in State Courts. Member States (currently 31) administer the oral performance examination as the central prerequisite for their state certification credential. Administrative support provided by National Center for State Courts. Tests are available in 12 languages.

Federal Court Certification: Certification through written and oral examination administered by the Administrative Office of the US Courts. Tests minimum competency required to work as an interpreter in federal court. Examinations are available in Spanish, Navaho, Haitian Creole only.

NAJIT/SSTI Exam: Credentialing test for both judiciary interpreters and translators provided by The National Association of Judiciary Interpreter and Translators. Currently available only in Spanish.

Other State Court Certification: Some states that are not part of the Consortium (above) have their own interpreter testing and qualification procedures.

Qualified Interpreter: Persons who have met the following requirements: (1) Completion of a seminar on the code of professional conduct for judiciary interpreters and translators; (2) A minimum of three years experience in court interpretation; (3) Awarded a passing score on the written component of the certification exam; (4) Reference letters attesting to the interpreter's performance and years of experience from judicial officers; (5) Membership in good standing in a professional interpreters association; (6) Sponsorship by two active members in good standing who have been members of the same association for at least two years and whose language(s) of expertise are the same as the applicant's. The sponsors must be court certified and attest to having witnessed the performance of the applicant, and to the accuracy of the statements on the application;

Note: This is the definition of Ohio Proposed Rules of Superintendence. Definitions vary from state to state.

Remote Interpreter: An interpreter not physically present on the scene but interpreting from a remote location via special telephone equipment or videoconferencing equipment. Qualifications of remote interpreters should be established following the same protocol as for 'live' interpreters. Remote interpreters should only be used for short (under 30 min) interpreted sessions.

RID Certification: Certification testing administered by Registry of Interpreters for the Deaf (RID). There are different levels of certification and only those outlined below are a credentialing for interpreters serving in a legal or quasi-legal setting.

Certified ASL Interpreter: Interpreters who hold a Specialist Certificate: Legal from RID, specifically geared to testing courtroom skills.

Qualified ASL Interpreter: Interpreters holding a Comprehensive Skills Certificate (CSC), Certificate of Interpretation (CI), Certificate of Transliteration (CT). Both CI and CT are required, or Certificate of Deaf Interpreting, plus three years of experience in court interpreting.

ASL Skilled Interpreter: In the case of sign language interpreters, a sign language skilled interpreter are persons who lack the training to be considered qualified interpreters, but who can demonstrate to the satisfaction of the court the ability to interpret sign language. These individuals hold only a CI or CT, have attended a seminar on interpreter's code of ethics and professional responsibilities, and have observed a minimum of 20 hours of in court proceedings.

Note: This is the definition of Ohio Proposed Rules of Superintendence. Definitions vary from state to state.

Skilled Interpreter: Persons who do not meet the requirements for qualified interpreters, but who have demonstrated to the satisfaction of the court the ability to interpret from English into a designated language and from that language into English, have attended a seminar on the code of professional conduct, and have observed a minimum of 20 hours of in court proceedings.

Note: This is the definition of Ohio Proposed Rules of Superintendence. Definitions vary from state to state.

GUIDANCE for MODEL LEP POLICY

MEANINGFUL ACCESS TO SERVICES

English is the national language of the United States and most foreign speakers who live in the U.S. for any length of time learn English to some degree. However, language learning always occurs in stages and depends greatly on one's educational level, access to classes, and daily living or working environments. A non-English speaking person or limited English proficient (LEP) individual has a right to access important state and federal programs and services, just as an English-speaking person does. These protocols are meant to ensure not a language right but an access right.

In taking reasonable steps to ensure meaningful access to LEP persons, the DOJ Guidance Policy sets out the following *four-factor analysis*:

- 1. Assessment of the number or proportion of LEP population and the specific language needs of its jurisdiction;**
- 2. Frequency of contact with the agency's programs and activities;**
- 3. Nature and importance of the program and activity;**
- 4. Resources available.**

In accordance with the four-factor analysis, law enforcement agencies can provide meaningful access to LEP individuals by:

- Taking reasonable steps appropriate to the circumstances for obtaining qualified interpreting and/or translating services.
- Ordering translations of vital documents, i.e. Miranda warnings, medical consent and waiver forms, jail rulebook, search warrants, and so forth into the languages of most common use in each jurisdiction.
- Posting translated signs that detail important information into the languages most frequently encountered.

- Providing training for staff on protocol and procedures for working with LEP individuals.
- Hiring bilingual staff and bilingual field officers.
- Maintaining and distributing (to all employees, stations, and substations) a directory of interpreters and translators, including language agencies meeting the criteria established and approved by the law enforcement agency for legal interpreting and translating services.
- Distributing (to all stations and substations, including field officers) the language identification “*Flash Card Communications Booklet*.”
- Monitoring the language assistance plan periodically to ensure that current language assessment needs are updated.

TRANSLATING POLICIES INTO PROCEDURES

OVERVIEW

Law Enforcement is frequently the first point of contact with LEP persons. Therefore, the manner in which an officer handles interviews and interactions with LEP victims, witnesses, suspects, and defendants can and will have an impact on the case. Police officers may encounter diverse scenarios that are not easily categorized. The higher the risk, impact, or importance of the scenario, the higher the standards of interpreting and translating must be. (See *Points of Interaction*, page 68.)

PROCEDURES

Hiring Bilingual Staff

The following guidelines are recommended in the recruitment and hiring of qualified individuals for bilingual staff positions and as bilingual officers:

- Advertise through minority advocacy groups, minority publications, magazines and newspapers.
- Implement a mechanism for testing bilingual staff and bilingual police officers.
- Create an incentive pay for bilingual staff and police officers.
- Provide a tuition reimbursement program for bilingual staff and officers to participate in continuing education to enhance language proficiency, participate in interpreter and cross-cultural training.

Law enforcement agencies are best served by hiring bilingual staff, telephone operators, and field officers. However, some jurisdictions may find it necessary and more cost effective to hire permanent certified interpreters and/or establish a language department with a coordinator to recruit, hire, train and supervise language service providers.

Each jurisdiction, depending on its LEP population and the resources available, will differ on the nature of the steps to be taken. For example, Summit County and Akron have a small LEP population, yet its Spanish LEP population is larger than that of other linguistic minorities.

The Summit County Sheriffs' office could benefit from hiring one Spanish-speaking operator per shift for 911 calls. Calls in languages other than Spanish might come in only three or four times a year. Therefore, it would be reasonable for Summit County to contract with a telephonic language service or call center to meet their need for providing language services to persons who speak a language other than Spanish.

In states with large LEP populations such as New York, California, Texas, etc., the hiring of bilingual operators and other law enforcement personnel, including the hiring of bilingual officers, would be the most cost efficient and effective method.

Even in areas with a small LEP population and few resources, or a large LEP population concentrated in one language but not others, law enforcement entities must be prepared to provide competent language services to any LEP individual.

All bilingual personnel should be subject to language proficiency testing to ensure that appropriate personnel are hired. Not everyone who claims to be bilingual has sophisticated language skill for all uses. Ability to carry out basic conversation in a foreign language is not enough for situations where safety and life can be at stake. Language proficiency must be reliably tested for police standards.²

Some police officers may have gone through language courses or had language skills tested in a military setting. It should be kept in mind that military settings cover various categories of language proficiency. In some cases the test is basic, as to allow a military officer to get directions or have simple interactions. This is not sufficient by any means to be considered a bilingual person, let alone an interrogator or interpreter.

Bilingual officers, even those with the ability to use varied vocabulary (from street usage to sophisticated usage), must be cautioned against conducting police interrogations on their own. Given the language proficiency required in interrogations (including use of ruses and counter-psychology), and given that the importance of these interactions may be of constitutional proportion, it is highly recommended that any bilingual officer possess native-like fluency in both languages, together with knowledge of the relevant specialized vocabulary, i.e. weapons, drugs, slang, medical, and legal terms.

Miranda Warnings and Vienna Convention notification must be given with complete accuracy in the foreign language. Every element required by Miranda must be accurately conveyed and preserved in the foreign language. It is recommended that these notifications and other standard rights forms be prepared and made available to all departments in many languages through a national database.

We recommend that an officer not perform a dual role, as an officer and an interpreter at the same time. These issues can leave you open for later legal challenges. Additionally, it is debatable whether a bilingual officer can remain neutral and independent in a role as language mediator.

It is also highly recommended that verbal Miranda warnings and police interrogations in a foreign language or through an interpreter be recorded to avoid challenges.

Recruiting and Hiring Interpreters

The following guidelines are recommended for recruiting and hiring interpreters:

1. Create a department-wide or national database of certified and qualified interpreters.
2. Recruit interpreters and translators through national and local interpreting and translating associations.
3. If not feasible to coordinate in-house, put out RFP to language agencies (specify in RFP that all language providers must be tested, trained and supervised for quality according to department specifications).
4. Advertise through minority advocacy groups, minority publications, magazines and newspapers.
5. Perform a criminal background check and/or security clearance on each language provider.
6. Implement a mechanism for testing minimum qualifications of interpreters for languages where no testing is available (can be accomplished in collaboration with NAJIT or the NCSC Certification Consortium).
7. Determine fair compensation for interpreters.
8. Provide tuition reimbursement incentive for interpreters to participate in continuing education.
9. Designate a person to compile a glossary in English of commonly used terms and abbreviations used within your jurisdiction (can be coordinated statewide, then nationwide)—to be made available to interpreters who work with your department.
10. Implement a training program for interpreters working with law enforcement, to include a mandatory ethics course and a reasonable number of continuing education units required per year.

Professional interpreters' code of professional responsibility requires them to remain neutral at all times regardless of who has hired them. They cannot serve as investigators or interrogators nor interject their own opinions or advice. Interpreters and translators should not be viewed as working toward anyone's benefit; they are merely language conduits. They should not be asked to create communication for either side, or explain matters to the non-English speaker. Interpreters are language experts knowledgeable about procedures and protocol pertaining to interpreting and/or translating and must limit themselves to that expertise.

There are valid and reliable testing instruments already in place for court/legal interpreting through state and federal entities, as described previously, and many States have taken or are taking the necessary steps to improve interpreting services for the courts. NAJIT and RID also have valid and reliable testing instruments in place for interpreters, and ATA reliably tests translators. In addition, these organizations maintain directories of certified interpreters and translators

Training modules and expert trainers are available through these entities. Therefore, local police departments can tap into already established networks and explore ways to share knowledge and resources.

When recruiting interpreters and translators, law enforcement agencies should first look at the pool of certified and qualified interpreters and translators available through national and local judiciary interpreting and translating associations. They need to contact these candidates and add them to a database. The information on the database should include the language into which they interpret, curriculum vitae, references, criminal background check, contact information, and hours of availability.

The second resource for recruitment of interpreters is private sector language agencies. Law enforcement agencies should keep in mind that not all agencies provide training, criminal background checks, or any type of minimum language or interpreting skill evaluations. Some national companies may have a screening mechanism in place. However, the screening might only be intended for a threshold minimum evaluation. No evaluations of this type have been approved as a court certification. Law enforcement agencies should require that the language agency they contract with provide interpreters who meet the same criteria and qualifications recommended for legal interpreting and translating.

The third method for recruiting interpreters should be through minority advocacy groups, publications, and newspapers. This method may not yield trained, qualified interpreters but at least will permit a jurisdiction to identify a potential pool of people interested in providing interpreting services. Once department guidelines are established, these people can eventually be tested for language proficiency, trained, and added to the database as language skilled.

Regardless of whether an interpreter is certified, qualified, or deemed language skilled, all interpreters should be required to participate in a basic ethics course and training

program dealing with law enforcement scenarios, i.e. weapons, drugs, hostage situations etc., including continuing education. Law enforcement agencies should know where they can send interested, uncertified interpreters to receive additional training on skills and basic legal and technical terminology.

Since September 11, 2001, law enforcement entities have a heightened awareness of:

- the importance of immediate access to available certified, qualified, and language-skilled interpreters and translators;
- the unpredictable nature of the demand for translation and interpretation services;
- the security importance of verifying an interpreter or translator's legal status in the United States, and
- the security importance of criminal background checks for language service providers.

For national security issues, the highest standards of legal interpreting and translating should be applied. In the heat of the moment, too often these matters have been entrusted to ad hoc personnel, potentially putting the investigation and prosecution at risk.

Translation of Vital Documents

In taking reasonable steps to ensure meaningful access to LEP individuals, law enforcement entities need to provide translations of vital documents, guided by the following principles:

1. Apply the DOJ **four factor analysis** (*See* page 45) for determining which documents should be translated and into which languages
2. Recruit translators through NAJIT and ATA with the required experience and credentialing for legal translations
3. Maintain a database of translators (as distinct from interpreters) for reviewing translated documents, editing, and providing translating services to law enforcement entities
4. Tap into resources of documents that have already been translated through other law enforcement entities, federal agencies, and courts.
5. Share financial resources with the Sheriffs and Chiefs associations of your state for translating standard documents.
6. All translated documents should to be kept in a database and readily available for the deputies and police officers to tap into.

Translation is the creation of an equivalent written text in another language. Just as the expertise requirements are at a high standard for legal interpretation, translation of legal documents also requires a high standard of experience, knowledge, and expertise. The skills and required expertise, however, are different from those of interpretation. Although many have specialized in both fields, not all interpreters, even those certified through a valid and reliable testing instrument for court interpretation, possess the

necessary skills for translations. Likewise, not all translators possess the expertise and skills required to act as interpreters.

Translation of legal documents is one of the most difficult types of translation. It has to be linguistically accurate, maintain the same language register (level), legal concepts and elements of all the vital information contained in the original text. Legal document translation requires extensive translation skill plus knowledge of legalese, including any idiosyncratic local terms.

When recruiting professional translators, law enforcement entities need to first consider the **audience** that the translation is intended for. For example: is the translation for a public website, is it going to a grand jury, is it going to be used at trial as evidence, or is it an informational pamphlet? Once the particular audience is identified, contract with a translator experienced in that specific area. The qualifications to be considered are the following:

- Years of experience
- Field of expertise (subject familiarity)
- ATA certification (translation into English, or into the foreign language)
- Court certification
- Membership in professional associations, publications
- Recommendations by other enforcement offices

In addition, references and samples of translated materials (from English into the target language or the target language into English, as required) should be requested.

Quality Control

Professional translators customarily have a second translator review and edit their work before presenting the final product. This process ensures a more accurate translation and minimizes errors. If translations are outsourced or routed through language agencies, quality control should be built into the process, according to department standards. Language agencies generally have quality control mechanisms in place, but the law enforcement agency should take care to specify its own requirements in any contract. Other methods for quality control and review of translated materials would be to establish a focus group or quality control committee consisting of a cross-section of the exact population the translations are geared towards in order to test the material before wide publication. (This would only be done with translations of great importance to the community.) Alternatively, the law enforcement agency may hire a translation reviewer to validate quality. Other methods of review include spot-checking by experts, requiring that any translation be approved by a review board or reviser, or requesting that the Embassy of that country or other stakeholders review the material for correct language and accuracy.

The best resource for obtaining professional translators for legal translations is through NAJIT and ATA, but even through professional associations, it is up to the contracting party to make sure the translator possesses the skills, training and experience in the subject matter, as well as necessary credentialing. Professional translators can always provide samples of their work. Using experts from the outset is the most cost-effective way to get the job done correctly the first time. Many public service agencies fail to choose a translator with care, incurring double-costing later to correct errors.

Some entities that are inexperienced, misinformed or unversed in the profession's standards have suggested using "back translations" as a form of quality control for reviewing already-prepared translations. (By this method, one would commission a translation into a foreign language, hire someone else to translate the finished document back into English and then compare with the original.) This method is by no means cost effective. In addition to the fact that "back translation" will never yield the same text as the original, it is doubly expensive to commission two translations.

When translating documents of importance (i.e., for wide dissemination), the law enforcement agency should inquire into or establish some quality control mechanism.

Great caution should be taken with automatic translation tools (such as Babelfish, Altavista, among others). Although technology is growing rapidly, computer-assisted translations for serious purposes are only effective in conjunction with a human translator for post-editing. Experts in the field recognize that computerized translations have limitations even for simple sentences. Automatic translation programs cannot recognize idiomatic usage, even in such a simple sentence as "Time flies." Technology may improve greatly in the next 5-10 years, making computerized translation more accurate, especially in military scenarios, but as of this writing automatic translation is best used to get the gist of a text, not to accurately transmit or convey the text.

Transcription and Translation of Audio and Video Tapes

The following guidelines are recommended for obtaining translated transcripts of undercover video or audio tapes:

- Know the needs of the situation. Is it an ongoing investigation, an emergency situation, a potential piece of evidence? Decide whether a complete translation is required or whether all that is needed is a "gist" idea of what the subjects are saying. If a transcript will be introduced into evidence in court, choose the translator with special care.
- Maintain a database of forensic transcription and translation experts through NAJIT and other sources.
- Check references, years of experience and subject familiarity.
- Providers with court certification and transcript experience are most desirable. If there is no court certification in a particular language, membership in a

- professional association or registry with a court is a sign of commitment. Inquire if the translator has ever provided expert testimony about a tape transcript.
- Always tell the translator where the speakers on the tape are from- country and city of origin, if possible. (Familiarity with accents may vary widely—just think of an Ohio resident listening to a backwoods Mississippi accent.)
 - Appoint contact person for the translator to communicate with while the translation is in progress in case any questions come up.
 - Provide translator with appropriate departmental guidelines and in-house glossaries.
 - Have translator sign a confidentiality agreement.

Experts in preparing tape transcripts of translated conversations are fewer than those for courtroom interpretation or legal translations. Some court interpreters specialize in this type of work while others don't have the necessary patience or ear for the vernacular. Transcript work requires not only knowledge and expertise in both legal interpretation and translation but additional skills, training, and knowledge of forensic transcription protocol, as well as special equipment to slow the tape down without distorting the sound.

Transcripts introduced into evidence must contain every element of the original conversation, including background noise, hesitations, nuances, overlaps of the speakers, pronunciation errors, and other elements must be maintained in order to provide an exact and accurate version of what has been said. There is a recognized format for preparing tape transcripts: two columns, with the left hand column containing the complete and accurate original conversation and the right hand column, the corresponding translation.

Producing reliable transcripts is very time consuming. Depending on the quality of the tape, every minute of recorded conversation can take 30-60 minutes to transcribe completely and translate. This type of work is generally charged by the hour and not by the word. In addition, translators must be prepared to testify about their work product, to respond to any translation challenges or linguistic questions that may arise. Once more, professionals in this area tend to work in teams. A second expert will generally review the transcription and translation to ensure accuracy and minimize challenges.

Since resources are very limited in this field, the best resource for recruiting and maintaining a list of experts is through NAJIT and local professional associations.

Booking and Medical Intake at Confinement Facilities

The following guidelines are recommended so that LEP persons have meaningful access to the medical services while incarcerated:

- Recruit and maintain a list of qualified interpreters for booking and medical intake.

- Hire bilingual nurses and staff depending on the frequency of contact with the LEP and the languages encountered.
- Provide translations of vital medical documents.
- Translate jail rule books.
- Provide qualified interpreter services for disciplinary actions.

Communication with LEP persons for booking purposes is very basic and a bilingual officer is appropriate for this process. Where serious problems can arise is during a medical intake or any other medical situation that could come up at a jail or detention facility. As with all medical scenarios, a person's health and possibly his or her life could be at stake and liability issues may be raised. Interpreters in the medical field know a wide range of medical terms. Certified and qualified interpreters in the legal field may also be familiar with basic and/or highly technical medical and forensic terminology, depending on experience. (Interpreters in the legal field are tested and work with scenarios involving car parts, tools, weapons, ballistics, drugs, medical examiner testimony, among others. Thus, specialized terminology is not limited to legal terms.)

As with all other medical settings, the issue of confidentiality is applicable. Federal, state and local legislation maintains confidentiality of medical information of individuals in custody. There are penalties for violating protective laws. Interpreters are bound by the same rules applicable to doctors and their agents. Interpreters cannot disclose medical information to anyone without the express consent of the patient. It is recommended that interpreters be informed of such rules and understand that the interpreter and the correctional institutions would be held liable. Whether the interpreter is an independent contractor or subcontracted by a language agency, medical staff should keep on file an agreement of confidentiality signed by the interpreter.

Medical staff at the jails should take reasonable steps to ensure the presence of competent interpreters and translators for medical settings, both for interpreting and translating vital medical waivers and forms. Such a practice minimizes liability issues that can arise from the use of untrained interpreters and translators.

Again, using the four-factor analysis one may determine which vital medical documents should be translated and whether any Jail Rule Book should be translated, and into which languages. Consideration should be given to the most cost effective and efficient manner with which to address this issue. Regardless of whether a written or oral translation is provided, and regardless of a low percentage of contact with a specific LEP language, all important services, rules, waivers, medical consent forms, etc., must be conveyed in a language that the LEP person can competently understand.

When taking disciplinary actions against an English-speaking inmate, the same principles should be applied to the non-English speaking inmate or LEP person. An LEP person should clearly understand what the jail rules are and what the consequences could be

should that person break any of those rules. Using other bilingual inmates is not considered an appropriate form of providing competent and neutral language services for the LEP.

Contracting with Telephonic Language Services

The following guidelines are recommended to insure that LEP persons have meaningful access to law enforcement services for non-emergency and emergency 911 calls:

1. Contract with a national call center for telephone interpreting that provides quality control over and supervision of interpreters in different languages.
2. Contract with individuals or telephone interpreting agencies that provide service in less commonly spoken languages.
3. Implement an internal quality control mechanism for reviewing tape-recorded interpreted calls for 911 or non-emergency calls.

Demographic Trends

The United States is a linguistically diverse country and demographic trends strongly indicate continuing growth and demand for language services. Due to this diversity, there will be unknown, unexpected situations that law enforcement entities encounter. We cannot possibly recruit and maintain lists of certified, qualified, or language skilled interpreters for every possible language; but by creating and implementing basic policies and procedures, law enforcement will have a solid foundation on which to build.

It is important for each law enforcement entity to periodically review demographic trends and amend policies and procedures to reflect those changes. In the meantime, we strongly suggest that in addition to maintaining a database of qualified interpreters and translators in the most commonly used foreign languages in each jurisdiction, law enforcement entities also contract with a nationwide telephonic interpretation service. These agencies provide both employees and subcontractors in many diverse languages at any time of day or night.

Recently, some jurisdictions have encountered LEP individuals who speak an indigenous language of the Americas. Although these individuals are from a Latin American country, they speak Indian languages that do not resemble Spanish and are spoken in very limited geographical areas. Some national language call centers at this time still lack the resources for these indigenous languages. It is recommended that in addition to telephonic language service, law enforcement entities compile other resources to tap in the event that the need for interpreters of rare languages should arise. State courts in Oregon and California, for example, already have identified resources in some of these languages and law enforcement entities would benefit from knowing whom to contact. In any database directory of language resources, contacts throughout the country can be listed.

Proper Use of the “Flash Card Communications Booklet”

The following guidelines are recommended for proper use of the “Flash Card Communications Booklet”:

- The booklet is designed for use in emergency and immediate situations while waiting for an interpreter to arrive at the scene.
- The booklet is designed to help expedite the immediate search of a suspect and/or vehicle.
- The booklet is designed to quickly identify the specific language needed.
- The booklet is designed to assist officers in understanding exactly what crime has taken place.
- All officers should be provided with a copy of the booklet.

The “Flash Card Communications Booklet” is designed to assist law enforcement in determining what language the individual speaks, and can be used in emergencies or while waiting for an interpreter to be contacted. As part of basic training for law enforcement on the policies and procedures, officers should be instructed on the use of the “Flash Card Communications Booklet.” Field officer division heads and information desks should have a copy readily available. In translating the “Flash Card Communications Booklet” into various languages, our committee took into account the specific language needs for the State of Ohio but has included additional languages from the census language chart. Once each State and jurisdiction has applied the four-factor analysis and determined the specific language needs for their jurisdiction, they can add additional languages.

RESPONSIBILITIES AND PROTOCOLS

Law Enforcement Agency

- The agency must be aware of the language service needs of the county and the proportion of LEP population they serve.
- Hire bilingual civilian and sworn personnel if it is the most cost effective means to address the needs of the level of the LEP population. Otherwise interpreter services may be contracted for with approved interpreters and/or language service agencies.
- Bilingual personnel must be tested for language proficiency to insure the level of bilingualism required for the given job description.
- Make available continuing education and resources to increase language proficiency of the bilingual personnel.
- Contract for services with interpreters and/or language service agencies. The law enforcement agency should only contract with telephonic language service agencies that employ certified and qualified interpreters and will follow the policies and protocols of the law enforcement agency.
- Provide training to interpreters regarding emergency calls and high stress level situations emphasizing the need to remain calm. The training should be the same as the training dispatchers receive in dealing with 911 calls.

Supervisor

- Ensure that personnel are trained in LEP policy and procedures and are continually provided any and all updates regarding changes in policy or language service agencies.
- Maintain a list of approved language service agencies.
- Monitor effectiveness of system and report periodically on problems and recommendations through the chain of command.
- Conduct de-briefings on all critical incidents involving interpreters and/or language service agencies.

Communications Division

- Maintain a database of approved telephonic interpretation contract agencies specifically for 911 calls i.e.: Language Line, and/or Language Services Associates. (See: [www.Language Line Services.com](http://www.LanguageLineServices.com), or www.lsaweb.com).
- Maintain a database of trained interpreters and approved language agencies available to respond to the scene if necessary.
- Communication Division must have at least 3-4 options outlined and available when the need for language assistance arises.
- Provide guidance and train all veteran and new personnel assigned to the Communications Division on LEP policy and procedures.
- Develop and maintain communication protocols within the law enforcement agency and provide training materials for interpreters on communication protocols within the agency and with the public.
- Determine the language of LEP caller for emergency and non-emergency calls for service.
- Quality control and monitoring of emergency calls involving the use of language service agencies cannot always be accomplished at the time of the requested service, but there should be a periodic review of all communications with the language service agency to insure quality interpretation.

Responding Deputy

- Learn the contents of the LEP policy and procedure manual.
- Upon contact with a LEP person, if necessary utilize the *Flash Card Communications Booklet* to determine the person's language.
- Evaluate the level of interpreter service required and determine the best case use of an interpreter according the *Points of Interaction Chart*.
- Contact the Communications Division and obtain the level of interpreter service required in accordance with the given situation, based on the recommended best case use of an interpreter according the *Points of Interaction Chart*

MODEL LEP POLICY

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	CHAPTER: TOPIC: Limited English Proficient Persons SUB-TOPIC:	STATUS Draft	EFFECTIVE DATE 08-13-04	APPROVED:

POLICY:

The Summit County Sheriff's Office recognizes that it serves a diverse community consisting of people from all national origins. There are many individuals for whom English is not their primary language. Individuals that have a limited ability to read, write, speak, or understand English are Limited English Proficient or LEP.

Language for LEP individuals can be a barrier to accessing important police services. When dealing with LEP persons, the Summit County Sheriff's Office shall provide interpreter services consistent with Title VI of the Civil Rights Act, Executive Order 13166, DOJ Guidance Policy.

RELATED STANDARDS:

- Title VI of the Civil Rights Act, Executive Order 13166, DOJ Guidance Policy
- 28 USC, Section 1827
- Miranda v. Arizona(1966), 384 U.S. 436, 16L.Ed.2d 694
- ORC 2311.14
- Ohio Rule of Evidence 604
- Points of Interaction Chart (Exhibit A)
- Flash Card Communications Booklet (Exhibit B)

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DEFINITIONS:

Certified Interpreter: Certified court interpreters are persons who have passed a National Center for State Courts Consortium test, or a Federal Court certification examination, or a NAJIT credentialing examination.

Interpretation refers to the process of orally rendering communication from one language into another language. *Interpretation deals with oral or signed speech.*

LEP: Limited-English-proficient [person]

Modes of Interpretation comprise the techniques an interpreter uses to convey messages. There are only three permissible modes of interpretation in a legal, quasi-legal or medical setting:

Simultaneous: Message conveyance with no time lag. Interpreter renders a second language version at the same time as listening to the original. Can be provided in whisper format for one listener, or more commonly, provided with electronic equipment (interpreter microphone and listener headsets). This mode of interpretation is used during all court proceedings, for international conferences, at the United Nations, and in other organizations and agencies.

Consecutive: Message conveyance with a time lag. The interpreter waits for the question or statement to be finished before interpreting into the second language. Used generally for Q and A scenarios, interrogations or testimony. Consecutive is considered more accurate than simultaneous because the whole context is clear before the language conversion process begins.

Sight Translation: the oral rendition of a written text
Oqm the source into the target language.

Qualified Interpreter: Persons who have met the following requirements: (1) Completion of a seminar on the code of professional conduct for judiciary interpreters and translators; (2) A minimum of three years experience in court interpretation; (3) Awarded a passing score on the written component of the certification exam; (4) Reference letters attesting to the interpreter’s performance and years of experience from judicial officers; (5) Membership in good standing in a professional interpreters

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association; (6) Sponsorship by two active members in good standing who have been members of the same association for at least two years and whose language(s) of expertise are the same as the applicant's. The sponsors must be court certified and attest to having witnessed the performance of the applicant, and to the accuracy of the statements on the application;

Note: Different states should have defined interpreter qualifications

Remote Interpreter: An interpreter not physically present on the scene but interpreting from a remote location via special telephone equipment or videoconferencing equipment. Qualifications of remote interpreters should be established following the same protocol as for 'live' interpreters. Remote interpreters should only used for short (under 30 min) interpreted sessions

Skilled Interpreter: Persons who do not meet the requirements for qualified interpreters, but who have demonstrated to the satisfaction of the court the ability to interpret from English into a designated language and from that language into English, have attended a seminar on the code of professional conduct, and have observed a minimum of 20 hours of in court proceedings.

Summary Interpretation: also known as occasional interpretation, where the interpreter listens more than s/he talks, later deciding what and how to summarize. In legal, quasi-legal, and medical settings, the profession's standards do not permit summary interpretation. Summary interpretation causes crucial information in interviews or interrogations to be excluded. Untrained interpreters resort to this mode because they lack the skills for simultaneous or consecutive, are unfamiliar with terms, or cannot accurately reproduce the rate of speech and density of information.

Translation is the preparation of a written text from one language into an equivalent written text in another language. *Translation deals with written texts.*

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PROCEDURE:

- I. All calls for service and contact with LEP persons whether via Communications Division or by personal contact.
 - A. When providing or receiving information, accuracy is crucial when dealing with LEP persons because of the inability to communicate often times creates a more emotional, confused or fearful situation.
 - B. The more serious the situation/interactions with LEP persons, the higher the standard of interpreting or translations if required.
 - C. The dynamic of each interaction with a LEP person as with English speaking persons can change very quickly, therefore all contacts or interactions with LEP persons shall be handled in the same manner as every other interaction with English speaking residents.
 - D. Deputies' duties and responsibilities.
 1. If a Deputy encounters a situation/contact with a citizen and he is unable to communicate with that person due to the fact that the person does not speak English, is LEP, or deaf, the Deputy shall do the following:
 - a. Determine the language of the LEP person by using the *Flash Card Communications Booklet*.
 - b. Determine the nature of services requested by the LEP person by using the *Flash Card Communications Booklet*.
 - c. Determine the level of interpreter services and the best case use of interpreter services that is necessary by using the *Points of Interaction Chart* including but not limited to:
 - i. Independent contractors, International Institute of Akron, Inc., other language

Agencies, including telephonic language agencies.

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- d. Whether personal contact with the interpreter is necessary or whether remote interpretation is adequate.
- e. Indicate the level of priority of the need of the interpreter service such as:
 - i. Most urgent
 - ii. Necessary within the next 30-60 minutes
 - iii. Follow-up interpreting services are necessary upon contact by the Sheriff's Office employee

E. Communications Division personnel duties and responsibilities.

- 1. If an employee of the Communications Division encounters a call for service or a "911" call for service and he is unable to communicate with that person due to the fact that the person does not speak English, is LEP, or deaf, the employee shall do the following:
 - a. Determine the language of the LEP caller.
 - b. Determine the nature of services requested by the LEP person.
 - c. Determine the level of interpreter services and the best case use of interpreter services that is necessary by using the *Points of Interaction* including:
 - i. Independent contractors, International Institute of Akron, Inc., other language agencies, including telephonic language agencies.

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- d. Whether personal contact with the interpreter is necessary or whether remote interpretation is adequate.
 - f. Indicate the level of priority of the need of the interpreter service such as:
 - i. Most urgent
 - ii. Necessary within the next 30-60 minutes
 - iii. Follow-up interpreting services are necessary upon contact by the Sheriff's Office employee.
2. Maintain a database of approved telephonic interpretation contract agencies specifically for 911 calls i.e.: Language Line, and/or Language Services Associates. (See: www.Language Line Services.com, or www.lsaweb.com).
 3. Maintain a database of trained interpreters and approved language agencies with their contact information available to respond to the scene if necessary.
 4. Communication Division must have at least 3-4 options outlined and available when the need for language assistance arises.
 5. Develop and maintain communication protocols within the law enforcement agency and provide training materials for interpreters on communication protocols within the agency and with the public.
 6. Quality control and monitoring of emergency calls involving the use of language service agencies cannot always be accomplished at the time of the requested service, but there should be a period review of all communications with the language service agency to insure quality interpretation

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- F. Supervisor's duties and responsibilities.
 - 1. Ensure that personnel are trained in LEP policy and procedures and are continually provided any and all updates regarding changes in policy or language service agencies.
 - 2. Maintain a list of approved language service agencies.
 - 3. Monitor effectiveness of system and report periodically on problems and recommendations through the chain of command.
 - 4. Conduct de-briefings on all critical incidents involving interpreters and/or language service agencies.
 - 5. Keep statistical data on all interactions involving languages other than English, including type of service required, nature of interaction, language involved, and approximate duration of the interaction.

- II. Type of contacts an employee may encounter with a LEP person, including but not limited to:
 - A. Arrests of LEP suspects
 - B. Criminal investigations involving LEP victims, witnesses, or suspects:
 - 1. At a crime scene
 - 2. Follow-up investigations
 - 3. Interrogation of LEP suspects
 - 4. Questioning of LEP victims or witnesses
 - 5. Trial preparation

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- C. Barricaded LEP suspects
 - 1. With hostages
 - 2. Without hostages
- D. Crowd Control
 - 1. Passive crowds
 - 2. Aggressive crowds
- E. Drug Surveillance
 - 1. Visual
 - 2. Body wire
 - 3. Title III wiretaps
- F. Missing Persons
- G. Intoxicated LEP persons
- H. Mentally disabled LEP persons
- I. LEP inmates
 - 1. Booking
 - 2. Medical
- J. Emergencies
 - 1. Medical
 - 2. Weather
- K. Traffic Stops
- L. Terrorist Suspects
- M. Searches of vehicles, homes, or persons
 - 1. Consent
 - 2. Warrant
- N. Suicidal LEP persons
- O. Warrant service
- P. Walk-ins

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III. Proper use of the *Flash Card Communications Booklet*

- A. The booklet is designed for use in emergency and immediate situations while waiting for an interpreter to arrive at the scene.
- B. The booklet is designed to help expedite the immediate search of a suspect and/or vehicle or administration of medical assistance.
- C. The booklet is designed to quickly identify the specific language needed.
- D. The booklet is designed to assist officers in understanding exactly what crime has taken place.
- E. Use of booklet:
 - 1. Show the LEP person the booklet and have them indicate which language they speak.
 - 2. Proceed through the booklet to develop a description of the type of crime that was committed or the type of service that the LEP is trying to attain.
 - 3. Proceed through the booklet to develop a description of a suspect
- F. After obtaining the necessary immediate information, refer to the attached Points of Interaction Chart to determine the best case use of interpreter services.

IV. Translated documents

- A. The office has translations into most frequently needed languages of standardized documents, including but not limited to:
 - 1. Medical forms
 - 2. Jail rule books
 - 3. Miranda warning cards
 - 4. Consent forms
 Check for availability in the language you need.
- B. Documents to be translated, if they are to be used in court, including but not limited to:
 - 1. Audio tapes from surveillance or wiretaps
 - 2. Confessions
 - 3. Statements of victims or witnesses

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V. Prohibitions

- A. The following are the types of examples of interpreting that should be expressly prohibited except where there is imminent danger of serious physical harm or death to any person:
1. Using children to interpret
 2. Using family members to interpret
 3. Using friends to interpret
 4. Using a bilingual officer or employee regardless of level of bilingual competency for police interrogations.
 5. Using bilingual inmates to interpret
- B. The following are examples of issues that interpreters are not permitted to comment on so that they may retain their role as neutral and to avoid any conflicts of interest or confidentiality:
1. Interpreters are not interrogators, attorneys, social workers, law enforcement officers or counselors.
 2. Interpreters shall not make English proficiency assessments of LEP persons.
 3. Interpreters shall not take on roles that conflict with their function as objective language mediators.
 4. Interpreters must refrain from giving opinions
 5. Interpreters shall not carry on unmediated conversations with a victim, witness, suspect or defendant.

POINTS OF INTERACTION BETWEEN LAW ENFORCEMENT AND LEP PERSONS

OVERVIEW

Implementing and providing competent language assistance in law enforcement scenarios is a complex task. Law Enforcement officers are faced daily with a variety of circumstances ranging from a person who walks into a police station to ask for directions, to speeding tickets, disorderly conduct, drunken brawls, arrests, medical intake, domestic violence, 911 calls, hostage situations, bomb threats, homicides and other situations.

We cannot foresee each and every scenario or language that an officer could encounter, but we have addressed as many diverse scenarios as possible in order to present you with guidelines and a minimum standard for competent language assistance to the LEP population. Keep in mind that the more serious the situation, the higher the standard of interpreting and translating must be applied. The dynamics of each interaction can change very quickly. A traffic stop may result in a warning or may turn into a violent arrest depending on many variables. Background of the offender, resentment of the police, prior record, or the nature of the offense, - all come into play. This theory may apply to all interactions with Law Enforcement whether the nature of the contact is informational gathering or enforcement activity.

In the chart that follows, suggested solutions for language assistance are divided into categories, from best to unacceptable, with reasoning for the latter provided. Clearly, many factors will be taken into account by the officer in charge, and training for the commanding officers will be required, but the chart presents a graphic of selected law enforcement scenarios and desirable qualifications for language service providers.

When reviewing the particular point of interaction that the law enforcement officer may encounter, the number associated with that interaction is used to give a value to the level of stress associated with that interaction. The numeric value was assigned based on the urgency of the interaction, time, potential for violence, safety of law enforcement and civilians and the level of accuracy required. The officer should consider the best-case use of an interpreter and whether or not personal contact between the interpreter and the LEP person is needed using columns 2-4. The unacceptable and reasoning columns list the types of unacceptable use of interpreters because of the need for accuracy, neutrality, evidentiary value and professionalism required to insure that LEP persons receive equal access to all services. This list of interactions is by no means all-inclusive. An exhaustive treatment would list each type of interaction, potential outcome and at what point an interpreter should be inserted into the equation. However, a good rule of thumb is to ask, "If this situation involved an English speaking person, what would we do? What are the standards applicable to the scenario absent a language barrier?" For the most part, the answer to those questions should provide the appropriate plan of action.

PROHIBITIONS

The following should be expressly prohibited except where there is immediate danger of serious physical harm of life threatening situation to any person:

- A. Using children to interpret
- B. Using family members to interpret
- C. Using friends to interpret
- D. Using a bilingual officer or employee regardless of level of bilingual competency for police interrogations.
- E. Using bilingual inmates to interpret

Points of Interaction <i>Stress Level</i> (1 = low, 3 = high)	POINTS OF INTERACTION CHART				
	USE OF INTERPRETERS				
	Best Choice	Second Best	OK and Last Resort	Unacceptable	Reasoning
1	2	3	4	5	6
<p>1. Witness/victim at crime scene [Time-critical scenario, necessity to pursue]</p> <p><i>Stress Level 3</i></p>	<p>Certified (<i>in person or remote</i>);</p> <p>Flash Card Communications Booklet (<i>while waiting for an interpreter to arrive</i>)</p>	<p>Qualified (<i>in person or remote</i>)</p>	<p>Bilingual officer</p>	<p>Children, friends, family of victim, or bystander are not acceptable except in case of imminent harm or medical emergency or for immediate information gathering to pursue suspect while waiting for an interpreter.</p>	<p>Exact details are essential. Harder to get reliable information over the phone if interpreter can't see the person talking or if victim is very emotional. Level of seriousness and injury also a factor. Potential suspect may not interpret correctly in order to hide/conceal info. Conflict of interest is unavoidable. Use of Children is inappropriate.</p>
<p>2. Witness/victim interview at crime scene [time-irrelevant scenario] (e.g.: car accident with both cars present, no injuries)</p> <p><i>Stress Level 1</i></p>	<p>Certified (<i>in person</i>);</p> <p>Flash Card Communications Booklet (<i>while waiting for an interpreter to arrive</i>)</p>	<p>Qualified (<i>in person</i>)</p>	<p>Skilled</p>	<p>Children, friends, family members or bystander should only be used for immediate information gathering to pursue suspect and while waiting for an interpreter.</p>	<p>Exact details are essential. Harder to get reliable information over the phone or by untrained bilinguals</p>

1	2	3	4	5	6
<p>3. Hostage Situations, barricaded suspects with hostages. Personal contact w/ officers.</p> <p><i>Stress Level is higher than 3,</i> depending on variables of the situation.</p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>	<p>No other options in this scenario</p>		<p>Interpretation accuracy is crucial. Hostage life's are at stake. Interpreters are in close contact with police negotiator to convey language nuances in messages. Interpreter needs 3-4 weeks special training by SWAT team officers.</p>
<p>4. Barricade suspect without hostages</p> <p><i>Stress Level 2</i></p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>	<p>No other options in this scenario</p>		<p>Interpretation accuracy is crucial. Interpreters are in close contact with police negotiator to convey language nuances in messages. Time is not a vital element at this stage. However, accuracy is. Interpreter needs 3-4 weeks special training by SWAT team officers.</p>
<p>5. Vehicle, Bus, Boat, Aircraft Assaults.</p> <p><i>Stress Level 1-3</i> It can exceed 3 depending on variables.</p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>	<p>No other options in this scenario</p>		<p>This scenario is the same as barricade. The stress level depends on whether there are suspect (s) with or without hostages. Interpreters need special training by SWAT Team officers.</p>
<p>6. Active Shooters</p> <p><i>Stress Level 3</i></p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>	<p>No other options in this scenario</p>		<p>Law enforcement and civilian lives can be at stake. Interpreter working in close contact with negotiator. Interpreters need prior special training by SWAT Team officers.</p>
<p>7. Suicidal Subject</p> <p><i>Stress Level 2</i></p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>	<p>No other options in this scenario</p>		<p>Interpreter working in close contact with negotiator. Interpreters need prior special training by SWAT Team officers.</p>

1	2	3	4	5	6
<p>8. High Risk Warrant Service</p> <p><i>Stress Level 3</i></p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>			<p>Interpreter not needed until after entry. Interpreter may be needed for Miranda, interrogations, explanations, identification. No time element.</p>
<p>9. Homicide Investigations – Stage one, crime scene. (need for immediate availability)</p> <p><i>Stress Level 3</i></p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>	<p>No other options in this scenario</p>	<p>Children, friends or family of victim can be used only for emergencies and immediate need for information gathering and while waiting for an interpreter. Conflict of interest unavoidable and use of children is inappropriate).</p>	<p>Officers need accurate information to develop enough information to solve crime. May deal with secondary victims and/or witnesses. Potential suspect may not interpret correctly in order to hide/conceal info.</p>
<p>10. Homicide Investigation – Stage two, follow-up interviews (time not an element)</p> <p><i>Stress Level 3</i></p>	<p>Certified <i>(in person)</i></p>	<p>Certified <i>(remote)</i></p>	<p>1. Qualified <i>(in person)</i> 2. Qualified <i>(remote)</i></p>	<p>Children, friends or family of victim. Conflict of interest unavoidable. Potential suspect may not interpret correctly in order to hide/conceal info.</p>	<p>May result in crime-solving and/or begin case preparation for trial. Complete accuracy is essential. No time element.</p>
<p>11. Homicide Investigation – Stage three, Trial preparation.</p> <p><i>Stress Level 2</i></p>	<p>Certified <i>(in person)</i></p>	<p>Certified <i>(remote)</i></p>	<p>1. Qualified <i>(in person)</i> 2. Qualified <i>(remote)</i></p>	<p>Children, friends or family of victim. Conflict of interest unavoidable. Potential suspect may not interpret correctly in order to hide/conceal info.</p>	<p>Time is not a vital element at this stage. However, accuracy is.</p>

1	2	3	4	5	6
<p>12. Domestic violence calls <i>Stress Level 1-3</i></p>	<p>Certified (<i>in person</i>)</p>	<p>1. Certified (<i>remote</i>) 2. Qualified</p>		<p>Friend, family of victim or bilingual bystander: only for establishing family member relationships, or for emergencies, and while waiting for an interpreter. Potential suspect may not interpret correctly in order to hide/conceal info. Use of children is completely unacceptable.</p>	<p>Depends on violence level and what officers encounter at first contact. (injuries, arrest imminent, or need to defuse anger) Respondents need to understand standard temporary protection orders. Victims need to sign domestic violence statements. Conflict of interest is unavoidable with friends and family, and use of children is inappropriate. Recommended that bilingual officer use standard language translated forms.</p>
<p>13. Crowd Control – passive (sporting events, parades) <i>Stress Level 1</i></p>	<p>Bilingual Officer</p>	<p>Skilled interpreter</p>			<p>Involves non-essential instructions and directions. No time element.</p>
<p>14. Crowd Control – aggressive – possible arrests, booking process, (separate issues and less time- sensitive) <i>Stress Level 2</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>)</p>	<p>Skilled or Bilingual Officer</p>		<p>Interpreter contact with police commander on scene is important so that concise instructions can be given and crowd reactions to instructions can be analyzed.</p>
<p>17. Vehicle Search <i>Stress Level 1</i></p>	<p>Bilingual Officer</p>	<p>Qualified (<i>remote</i>)</p>		<p>Children, friends or family of victim</p>	<p>To request search, obtain permission. Note: Recommended that bilingual officer use standard language from translated forms.</p>
<p>18. Field Medical Emergency <i>Stress Level 2-3</i>, depending on the situation</p>	<p>Certified or Qualified (<i>Remote</i>)</p>	<p>Bilingual Officer* *Until certified or qualified interpreter is available</p>		<p>Friends, children, family member, or bystander should only be used for immediate information gathering and while waiting for an interpreter.</p>	<p>EMS in contact with hospital. Injury may be visible, more information required re: illness (e.g., special medication) may result in death of victim.</p>

1	2	3	4	5	6
<p>19. Medical Intake <i>Time constrains:</i> should be completed within 24 hrs of arrival at the detention facility</p> <p><i>Stress Level 1</i></p>	<p>Medical bilingual staff</p>	<p>Qualified <i>(remote or in person)</i></p>			<p>Potential problems: unidentified medical conditions and needs (e.g., special medication) may result in lawsuit.</p>
<p>20. Booking</p> <p><i>Stress Level 1</i></p>	<p>Bilingual officer or staff</p>	<p>Skilled</p>			<p>Routine. Interpreter needed within 24 hours.</p>
<p>21. Drug Surveillance – Visual</p> <p><i>Stress Level 1-3</i>, depending on the variables</p>	<p>Certified <i>(in person)</i></p>	<p>Qualified <i>(in person)</i></p>			<p>Complete accuracy is essential. If an undercover agent or confidential informant is on scene, agent’s and CI’s lives are at stake. Possible need for interpreter to spot danger. Interpreter needs prior training by police for working in this scenario and the use of vehicle equipment in case of emergencies. No time element.</p>
<p>22. Drug Surveillance – wire tap</p> <p><i>Stress Level 1</i></p>	<p>Certified Interpreter/translat or with prior experience and training</p>	<p>Qualified Interpreter/translator with prior experience and training</p>			<p>Agents to distinguish between a need for summary of conversation in progress or simultaneous interpretations of conversation in progress. Transcription and Translations may be required. No time element.</p>
<p>23. Title III Wire tap</p> <p><i>Stress Level 1</i></p>	<p>Certified Interpreter/translat or with prior experience and training</p>	<p>Qualified Interpreter/translator with prior experience and training</p>			<p>Complete transcription and translations of recorded conversations on a title III wire tap are required. Conveying accurate interpretation of the conversations is essential.</p>

1	2	3	4	5	6
<p>24. Transcription and Translations of wire tap conversations</p> <p><i>Stress Level 1</i></p>	Certified interpreter/ translator with prior experience.	Qualified interpreter/ translator with prior experience.			Agents to distinguish between the need for summary of the recorded conversation and a complete transcript with translation. Accuracy of transcription and translation is essential for information gathering and possible use as evidence in court. No time element.
<p>25. Dealing with Intoxicated LEP</p> <p><i>Stress Level 1</i></p>	Bilingual Officer	Skilled			Unless injured, no time element. Need for identification for booking purposes.
<p>26. Dealing with mentally disabled LEP.</p> <p><i>Stress Level 1</i></p>	Qualified, <i>(in person)</i>	Bilingual Officer			Level of violence is a factor. Police try to identify and transport subject to proper mental facility. Dealing with subject and family as necessary.
<p>27. Dealing with LEP Juveniles and their parents</p> <p><i>Stress Level 2</i></p>	Qualified <i>(in person)</i>	Qualified <i>(remote)</i>			May require explanation of cultural differences in family dynamics to police. Need to reduce fear/distrust of police.
<p>28. Possible Terrorist Suspects Immediate need to identify and question.</p> <p><i>Stress Level 3</i></p>	Certified <i>(in person)</i>	Certified <i>(remote)</i>	1. Qualified <i>(in person)</i> 2. Qualified <i>(remote)</i>	No other choices acceptable in this scenario	Usually a federal agency involved, in-house interpreter will take over.
<p>29. Airport and other mass transit National security issues may be involved.</p> <p><i>Stress Level 3</i></p>	Certified <i>(in person or remote)</i>	Qualified <i>(in person)</i>	Bilingual officer <i>(if trained for emergencies of this nature)</i>	No other choices acceptable in this scenario	Questions re: identification; announcements and instructions re: searches or delays.

1	2	3	4	5	6
<p>30. Traffic Stops and DUI arrests</p> <p><i>Stress Level 2</i></p>	<p>Bilingual Officer* * <i>with training</i></p>	<p>Qualified (<i>in person</i>)</p>			<p>Evidence required in court that suspect understood instructions. Time is a factor in DUI cases for testing blood alcohol level.</p>
<p>31. Search Warrant – dynamic entry, possible weapons</p> <p><i>Stress Level 3</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>) or Bilingual Officer* *<i>with training</i></p>			<p>Police need to use right words upon entry to prevent misunderstanding. Interpreter can remain in car. After entry, interpreter may be needed for explanations, identification. No time element.</p>
<p>32. Child Protective Services Children’s Services Agency may request police to accompany.</p> <p><i>Stress Level 2</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>)</p>	<p>Bilingual Officer* *<i>with training</i></p>	<p>Children, friends or family of victim or any bilingual who has not been trained to interpret</p>	<p>Usually agency provides advance notice of interpreter need and may supply one. Interpreter role is to prevent misunderstanding and obtain correct information. No time element.</p>
<p>33. Station House, walk-ins</p> <p><i>Stress Level 1</i></p>	<p>Bilingual officer/staff; Flash Card Communications Booklet (<i>to find out the language spoken by the person needing assistance</i>)</p>	<p>Remote (<i>any category</i>)</p>			<p>Once needs determined, more qualified interpreter may be required.</p>
<p>34. Signage... location and language</p> <p><i>Stress Level 1</i></p>	<p>Translator / Certified Interpreter</p>	<p>Qualified interpreter w/ translation experience</p>			<p>Correct language important. Census of most common LEP’s in jurisdiction should determine language(s) to be used on signs. Beware of non-standard spelling and usage.</p>

1	2	3	4	5	6
<p>35. Interrogation, investigation, and follow-up (e.g.: witness/victim interrogated by defense, prosecutor or investigator)</p> <p><i>Stress Level 1</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>)</p>	<p>1. Certified or qualified (<i>remote</i>)</p> <p>2. skilled*(<i>in person</i>) *only in low priority cases</p>	<p>Family or friends or any bilingual who has not been trained to interpret including police officers or attorneys(dual roles, proficiency, interpreting experience, and neutrality can be challenged</p>	<p>Accuracy of information gathering is essential for court preparation. No time element.</p>
<p>36. Court proceeding, EBT (e.g.: witness/ victim to testify in court hearing or at deposition)</p> <p><i>Stress Level 1</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>)</p>	<p>Certified or Qualified (<i>Remote only if 20 min or less</i>) otherwise Adjourn</p>	<p>Family or friends or any bilingual who has not been trained to interpret</p>	<p>No time element</p>
<p>37. Trial (e.g.: witness/victim to testify)</p> <p><i>Stress Level 1</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>)</p>	<p>Skilled interpreter (<i>in person</i>)</p>	<p>Remote interpreter (possibility of error too high) Family or friends or any bilingual who has not been trained to interpret</p>	<p>No time element</p>
<p>38. Break-in (Victims)</p> <p><i>Stress Level 1</i></p>	<p>Certified (<i>in person or remote</i>)</p>	<p>Qualified (<i>in person or remote</i>), or Bilingual Officer* *with training</p>		<p>Family, friends, bystander or any bilingual who has not been trained to interpret Potential suspect may not interpret correctly in order to hide/conceal info.</p>	<p>Accuracy of information gathering is essential for court preparation.</p>

1	2	3	4	5	6
39. Theft <i>Stress Level 1</i>	Certified <i>(in person or remote)</i>	Qualified <i>(in person or remote)</i> or Bilingual Officer* <i>*with training</i>		Family, friends, bystander or any bilingual who has not been trained to interpret <i>Potential suspect may not interpret correctly in order to hide/conceal info.</i>	Accuracy of information gathering is essential for court preparation.
40. Rape <i>Stress Level 3</i>	Certified <i>(in person)</i>	Qualified <i>(in person)</i>		Family, friends, bystander or any bilingual who has not been trained to interpret <i>Potential suspect may not interpret correctly in order to hide/conceal info.</i>	Accuracy of information gathering is essential for court preparation. <i>Gender of interpreter may be critical in addition to understanding cultural implications</i>
41. Robbery in progress <i>Stress Level 2</i>	Certified <i>(in person)</i>	Qualified <i>(in person)</i>		Family, friends, bystander or any bilingual who has not been trained to interpret. <i>Potential suspect may not interpret correctly in order to hide/conceal info.</i>	Accuracy of information gathering is essential for court preparation.
42. Felonious assault <i>Stress Level 2</i>	Certified <i>(in person or remote)</i>	Qualified <i>(in person or remote)</i>		Family, friends, bystander or any bilingual who has not been trained to interpret. Potential suspect may not interpret correctly in order to hide/conceal info.	Accuracy of information gathering is essential for court preparation.
43. Bomb Squad <i>Stress Level 3</i>	Certified <i>(in person)</i>	Qualified <i>(in person)</i>	Bystanders only for immediate emergency and while waiting for an interpreter		Interpreter contact with police commander on scene is important so that concise instructions can be given and crowd reactions to instructions can be analyzed.

1	2	3	4	5	6
<p>44. Arrest and interrogations (Miranda)</p> <p><i>Stress Level 1</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>)</p>		<p>Family <i>or</i> friends <i>or any</i> bilingual who has not been trained to interpret <i>including police officers</i> even if highly bilingual (<i>dual roles, proficiency, interpreting skills and experience can be challenged in addition to</i> neutrality issues.</p>	<p>Accuracy of elements of Miranda is critical, and accuracy of information gathering is essential for court preparation.</p>
<p>45. Body-wire (with undercover agent or informant.)</p> <p><i>Stress Level 3</i></p>	<p>Certified (<i>in person at command station</i>)</p>	<p>Qualified (<i>in person at command station</i>)</p>	<p>No other options available in this scenario</p>		<p>Undercover agent's and informant's lives are at risk.</p>
<p>46. Response to emergency situations (i.e.: tornados, earthquake, fires, floods, etc)</p> <p><i>Stress Level 3</i></p>	<p>Certified (<i>in person</i>)</p>	<p>Qualified (<i>in person</i>)</p>	<p>Skilled (in person) or Bilingual Officer* *with training Bilingual bystander while waiting for an interpreter</p>		<p>Interpreter contact with police commander on scene is important so that concise instructions can be given and crowd reactions to instructions can be analyzed.</p>
<p>47. Communications (Dispatchers for 911 and non-Emergency calls)</p> <p><i>Stress Level 1-3</i>, depending on the variables</p>	<p>Trained and tested bilingual dispatcher. Certified Interpreter (<i>remote</i>)</p>	<p>Qualified Interpreter (<i>remote</i>)</p>		<p>Untested and untrained bilingual staff. Untrained remote interpreters.</p>	<p>Accuracy of information can be critical. Interpreters need the same type of training that dispatchers receive for handling emergency calls. Native like fluency in both languages are required for bilingual dispatchers. Emergency calls can come in through a 911 number or regular number. Therefore, dispatchers or remote interpreters must be prepared to handle all scenarios.</p>

INTERPRETER SERVICES RESOURCES

Independent Contractors

CCIO

International Institute of Akron, Inc.

NAJIT

ATA

Language Line Services

Language Services Associates

Other language agencies (**if** they provide interpreters who are qualified, trained, and have passed the department's criminal background check)

Social Service agencies for linguistic minority communities (for referrals)

GUIDANCE FOR OBTAINING AN INTERPRETER

Law enforcement officer will contact Communications Division to make arrangements for an interpreter.

An interpreter will be selected from the list of approved interpreters or approved language agencies.

WORKING WITH INTERPRETERS

Interpreters and translators working in the legal and quasi-legal field (criminal investigations, emergency response, arrest, interrogations, domestic violence, child protective services, field sobriety tests, DUI, traffic stops, hostage-taking, consent to search, and other situations) must understand their role and the rules applicable to the practice of their profession with law enforcement entities.

Law enforcement entities also need to know and understand the role, qualification requirements and professional responsibilities of interpreters and translators. In preparing their policy guidelines, law enforcement agencies should be candid about their expectations of the interpreter or language service provider and resolve any “turf disputes” before guidelines are finalized.

Interpreters are not interrogators, attorneys, social workers, law enforcement agents or counselors. They cannot make language proficiency assessments to determine how much English a given person can understand. This may seem obvious, but law enforcement personnel sometimes ask interpreters to take on other roles which conflict with their function as objective language mediators. Interpreters should be limited to being the language link, nothing more. By definition, interpreters are needed when two or more other people cannot communicate with one another. Interpreters and translators should not be manipulated or tempted to step out of their language function, regardless of who has hired them. They must abide by the ethics of neutrality, the avoidance of any conflict of interest, and confidentiality.

Law enforcement agents must refrain from asking opinions of the interpreters. Such questions could provide an officer with misleading information. Officers need to monitor the interpreter. If they see an interpreter carrying on unmediated conversation with a witness, suspect, or defendant, the officer needs to interject and stop the interpreter immediately. If an interpreter tries to provide advice or interject opinions, (not related to language expertise) the officer should remind the interpreter of his/her role.

Law enforcement work can be very stressful for an interpreter, especially in situations involving hostages, missing persons, rape and homicide victims. For this reason, training should be provided to an interpreter pool, similar to the training provided to police officers, so they will be prepared to act appropriately in emergency situations. Interpreters who do not routinely work in these settings can easily become overwhelmed. Law enforcement entities may also want to consider having in place a mechanism for debriefing interpreters after these scenarios have taken place.

When working with LEP individuals through interpreters, officers need to bear in mind that the same standard procedures prescribed by law for English speakers are applicable to the non-English speaking or LEP individual. To deviate from these standard procedures because an interpreter is present may result in the denial of due process, wrongful convictions, criminals escaping prosecution, or jeopardizing the safety of officers, victims and civilians.

When interpreters understand the ethical standards and role assigned to them, and law enforcement learn how to work with them, and well thought-out policies and procedures are implemented, law enforcement entities can create the necessary nexus between the LEP, interpreters and the criminal justice system, thus ensuring equal justice.

OPERATIONAL AND ADMINISTRATIVE RECOMMENDATIONS

It is strongly recommended that statistical data be kept on all interactions involving languages other than English by each county, including type of service required, nature of interaction, language involved, and approximate duration of the interaction. This will assist local departments to evaluate service each year and plan for the future. Local statistics can be tabulated for a statewide analysis of law enforcement's language needs.

Any contract with outside agencies should include a yearly reporting requirement of services rendered, with the above criteria.

It is also recommended that when requesting interpreters from Communications, a triage system be established to indicate priority – #1 most urgent, #2, needed in the next 30-60 minutes, etc.— or whatever coding system is deemed appropriate. Communications should relay the priority level to the interpreter in words or code, and all relevant information about scenario, including clear statement of police goal on the scene.

COMMUNITY OUTREACH PROGRAMS

Most law enforcement agencies have community outreach programs or community relations officers. It is recommended that law enforcement display good relations with different language minority communities by conveying work opportunities for language professionals in the police department (or as independent contractors) through presentations in schools, community centers, places of worship and town meetings. These presentations should stress law enforcement's desire to protect community members, respect their languages and understand their traditions.

For example, Summit County Sheriff's Office uses a bilingual (English/Spanish) "talking" PT 77 Cruiser for presentations about road safety rules at schools, community fairs and Hispanic community festivals.

Some departments (for example, NYPD in Chinatown) have auxiliary officers who assist and counsel the police in all community interactions.

Similarly, interns can be obtained from interpreting or translating programs or courses given at local universities. Some areas in which students can be used: to compile statistics, compile English or bilingual glossaries of frequently used terminology, assist with database entry, prepare reports on the use of foreign languages in the community, help plan community outreach sessions.

IMPLEMENTATION RECOMMENDATIONS

Draft policies and procedures is the first step in ensuring meaningful access to LEP populations followed by a plan of action for implementation.

The following steps are recommended:

1. Distribute draft of proposed model program for comments. Target interested organizations and advocacy groups servicing LEP populations. [Designated time for public comment: one month.]
2. Make final Policy and Procedure Manual available through the Summit County Sheriff's Office, City of Lorain Police Department, and U.S. DOJ website.
3. Make copies and distribute the "*Flash Card Communications Booklet*" booklet to all deputies and police officers.
4. Have the "*Flash Card Communications Booklet*" booklet order form or downloadable file available on the law enforcement agency's webpage.
5. Recruit ASL and spoken language interpreters, create database with contact information, availability and qualifications.
6. Recruit translators in needed languages for document translations, through committee members, NAJIT and ATA
7. Conduct criminal background check on all interpreters.
8. Agencies providing interpreter services should be required to provide a criminal background check when servicing law enforcement agencies.
9. Once interpreter pool is identified, organize training to include:
 - (a) ethics and professional responsibilities
 - (b) law enforcement scenarios, i.e. hostage situations, interrogations, etc.
 - (c) local law enforcement lingo and practice
 - (d) how interpreter service will be administered and supervised
9. Create a training video for law enforcement on the policy and procedures for working with interpreters and the non-English/LEP population or use the US DOJ LEP training video.
10. Create and implement a training module for law enforcement on how to work with interpreters. (Professional associations can provide this training if requested.) Include a component on cross-cultural, racial, and ethnic fairness.
11. Create a training component for basic survival Spanish for law enforcement
12. Recruit potential trainers. Create a training of trainers module to pre-identify a pool of people prepared to present on language and community issues. Make list of trainers

available to Ohio, US DOJ, Federal and law enforcement agencies throughout the United States.

13. Hire bilingual officers where necessary and available. Provide training to them in points of interaction.
14. Hire bilingual personnel where necessary.
15. Consider hiring a staff interpreter or language coordinator to work within Communications Unit and manage program.
16. Determine the internal or external quality control mechanisms to be applied.
17. Research existing monolingual and bilingual glossaries and law enforcement terminology resources (Much of this information available through NAJIT members and FBI).
18. Designate a contact person to work with translator associations and terminologists (possibly through university programs) to create an in-house term database of current language used for drug terms, slang, weapons, to be used as reference by language specialists and make available on the agency's website. [Much is already available. See: *Cop Speak, the lingo of law enforcement and crime*, Tom Philb in, John Wiley & Sons.]
19. Research the possibility of grants and other fund-seeking opportunities to create and maintain the LEP Model Program for Law Enforcement.
20. Monitor the language assistance plan periodically to ensure that current language assessment needs are up-to-date.

PILOTING THE PROJECT

It is recommended that the plan be piloted and monitored upon implementation and for approximately one year afterward, to identify unforeseen issues and ensure the program's effectiveness.

APPENDICES

ARTICLE 36:

VIENNA CONVENTION ON CONSULAR RELATIONS

To comply with Article 36 of the Vienna Convention on Consular Relations, the following principles should be applied:

1. Inform all law enforcement personnel and field officers of the obligation under Article 36 of the Vienna Convention on Consular Relations to have a consulate notified of a foreign national's arrest.
2. Keep on file translations into different languages of the Consular Notification. Translations in various languages are available at: www.state.gov or go to: http://www.state.gov/www/global/legal_affairs/ca_notification/ca_part4.pdf
3. Notify LEP individuals at the same time as they are given Miranda Warnings and at the time of arrest.

Article 36 of the Vienna Convention on Consular Relations (VCCR) became effective for the United States on December 24, 1969; 21 UST 77; TIAS 6820; 596 UNTS 261. However, few local law enforcement and judicial authorities are aware of its existence.

One function of government has long been to provide services to its citizens/nationals abroad. These "consular" services include certain legal services, such as notarizing documents or assisting with the estate of a citizen who had died abroad. They also include looking for missing citizens, determining whether citizens are safe, assisting in evacuating citizens from countries where their lives are endangered, and other similar "welfare and whereabouts" services. Another important consular function is the provision of assistance to citizens who are detained by a foreign government. Protecting such citizens may include attempting to ensure that they receive a fair and speedy trial with benefit of counsel; visiting them in prison to ensure that they are receiving humane treatment; and facilitating communications with their families. Article VI, clause 2 of the Constitution of the United States is clear that ("all treaties made . . . shall be the supreme law of the land"). They are binding on federal, state, and local government officials to the extent that they pertain to matters within such officials' competence. In addition, there are provisions in bilateral agreements between the United States and other countries that require mandatory consular notification. Law enforcement entities should be aware of which countries have mandatory notification provisions. Regardless of whether a country has mandatory or optional provisions, law enforcement must still ensure that notification be provided immediately to the LEP and/or sending State. The failure of local law enforcement authorities to recognize and comply with the VCCR can become a significant issue at the federal appellate court level and can have a direct impact on international relations. For detailed information on the VCCR go to: http://www.state.gov/www/global/legal_affairs/ca_notification/ca_prelim.html

CANONS OF ETHICS (As proposed in Ohio)

CONDUCT FOR COURT AND/OR LEGAL INTERPRETERS AND TRANSLATORS

Note:

The proposed Canons of Ethics and Conduct for Interpreters and Translators were drafted by the Supreme Court of Ohio’s Racial Fairness Implementation Task Force Interpreter Services Sub-Committee. The implementation recommendations were accepted by the Ohio Supreme Court and are in the process of being adopted. In preparing these Ethics, the sub-committee reviewed attorney and judges’ ethics, industry standards, professional association standards, including the standards required by law. Although these ethics focus mainly on court proceedings, an interpreter working in any legal and/or quasi-legal setting is still bound by the same ethics and professional responsibilities applicable in a court setting.

CANON 1: HIGH STANDARDS OF CONDUCT

Interpreters, transliterators, and translators shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

Considerations: Interpreters, transliterators, and translators should maintain high standards of conduct at all times to promote public confidence in the administration of justice.

CANON 2: ACCURACY AND COMPLETENESS

Interpreters, transliterators, and translators shall render a complete and accurate interpretation or sight translations, without altering, omitting, or adding anything to what is stated or written, and without explanation.

Considerations: Interpreters, transliterators, and translators, in order to preserve the court’s record and assist in the administration of justice, should faithfully and accurately interpret and repeat faithfully and exactly the meaning of what is said without embellishing, explaining, omitting, adding, altering, or summarizing anything spoken or written. This includes accuracy of style or register of speech, non-distortion of the meaning of the source language even if it appears obscene, incoherent, non-responsive, or a misstatement. When addressing the non-English speaker, they shall not assume or presume the intent behind any question asked and attempt to correct the question in the interpretation.

Interpreters, transliterators, and translators have a duty to correct themselves if they misinterpret, in order to preserve the court record. They have a duty to request repetition if they do not hear the information or the party did not speak in an audible manner.

CANON 3: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST

Interpreters, transliterators, and translators shall be impartial and unbiased. They shall refrain from conduct that may give the appearance of bias and disclose any real or perceived conflict of interest.

Considerations: Interpreters, transliterators, and translators shall not permit themselves to be used as an investigator in the case or as an investigator for any party to a case. They shall not permit themselves to be used for communicating information to a party, a relative to a party, or witness without the presence of the attorney. They shall not receive gifts or secondary remuneration above and beyond their set fees. If an actual conflict of interest or an appearance of a conflict of interest arises, the interpreter shall inform the court and the attorneys involved in the case. Such disclosure shall not include privileged or confidential information.

Interpreters, transliterators and translators must disclose on the record to the court any prior involvement with the case, parties, or witnesses that could be viewed as a conflict of interest. Following disclosure, the court shall determine whether the interpreter may remain on the case. Interpreters, transliterators, and translators must refrain from conversations with parties, witnesses, jurors, attorneys, law enforcement agents, or with friends or relatives of any party during a trial unless it is to carry out interpreting duties. Should the interpreter become aware that a party in the case views the interpreter as being biased; the interpreter must disclose that information to the court. Counsel for either party may petition the court for appointment of a different interpreter thereby releasing the interpreter from the obligation the record. However, the court shall determine whether the interpreter may remain on the case.

Attorneys, probation supervisors or investigators, police officers, therapists, social workers, family members, friends, volunteers or other professionals should not interpret in any non judicial proceeding or for any court or court support service in which he or she is professionally involved with a party to the matter and/or does not hold a certification on court interpretation or are qualified to interpret in legal settings. Interpreters, transliterators, and translators shall not offer opinion to any party, counsel or court official concerning the theory of a case, the credibility of a witness, or the demeanor of the finder of fact during the course of any judicial proceeding.

A conflict of interest may exist when:

1. Interpreters, transliterators, and translators are related to or have a close social relationship with a party or witness, or are themselves potential witnesses.
2. Interpreters, transliterators, and translators have been involved in the choice of counsel.
3. Interpreters, transliterators, and translators themselves, their spouse, or their child are party to the proceeding or have a financial interest or any other interest in the outcome of the case.
4. Interpreters, transliterators, and translators have served during the investigative phase of the case, which would require them to testify as an expert.

CANON 4: CONFIDENTIALITY

Interpreters, transliterators, and translators shall protect and not disclose a non-English speaker's privileged or confidential information made in or out of court without permission of said non-English speaker; provided, however, that such non-English speaker had a reasonable expectation or intent that such communication would be protected and not be so disclosed.

Considerations: Interpreters, transliterators and translators shall uphold attorney client privileged information. They shall protect from unauthorized disclosure all privileged or other confidential information that they obtain during the course of their professional duties. This means confidentiality with respect to any communication, documents, police and medical records, or other types of privileged communications. Interpreters, transliterators, and translators shall not derive any profit or advantage from any confidential information acquired while acting in a professional capacity.

CANON 5: REPRESENTATION OF QUALIFICATIONS

Interpreters, transliterators, and translators shall accurately and completely represent their certifications, training, and pertinent experience.

Considerations: Interpreters, transliterators, and translators have a duty to present completely and accurately any applicable testing credentials, certifications, training, references and pertinent experience.

CANON 6: PROFICIENCY

Each court interpreter, translator, or transliterator shall provide professional services only in matters or areas in which said professional can perform proficiently.

Considerations: Upon accepting an assignment, the interpreters, transliterators, and translators imply they have the capacity to perform effectively in the given setting, are fluent in both languages, and have the capacity to interpret accurately and understand the regional differences and dialect spoken. Interpreters, transliterators, and translators have a duty to request from the court and parties all pertinent information and materials, necessary to prepare for the case. Interpreters, transliterators, and translators should strive continually to improve language skills and knowledge of specialized vocabulary and familiarize themselves with the judicial system and any court rules pertaining to interpreters. Interpreters, transliterators, and translators are responsible for having the proper dictionaries and other reference materials available when needed.

CANON 7: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE

Interpreters, transliterators, and translators shall assess at all times their ability to deliver their services. If the interpreter, transliterator, and translator discover anything which impedes full compliance with this code, said individual shall report immediately this information to the appropriate judicial authority.

Considerations: Interpreters, transliterators, and translators shall inform the court if they are having difficulties obtaining any of the pertinent information or materials required to prepare for a trial or court proceeding which may impede their ability to perform adequately. If at the time of a hearing or trial the interpreter has not been provided with the information, the interpreter must, on record, inform the court and request a recess to review the information. Interpreters, transliterators, and translators should withdraw from an assignment due to lack of preparation, difficulty understanding the client, or lack of proficiency.

CANON 8: DUTY TO REPORT ETHICAL VIOLATIONS

Interpreters, transliterators, and translators shall report to the court any efforts to impede their compliance with any law, provision of this code, or other official policy governing court interpreting or legal translating. Interpreters, transliterators, and translators shall report to the appropriate judicial authority if they observe another interpreter, transliterator, or translator improperly performing an interpreting or translating assignment.

Considerations: Interpreters, transliterators, and translators have the duty to report to the court any ethical violations, actions, or information that suggests imminent harm to someone, relates to a criminal act, or refers to the persistence of a party demanding the interpreter, transliterator, or translator violates the law, subject to applicable privilege. In such a situation, the judge shall determine what action, if any, should be taken.

CANON 9: SCOPE OF PRACTICE

Interpreters, transliterators, and translators shall not give legal advice, conclusions with respect to any answer, express personal opinions to individuals for whom they are interpreting, or engage in any other activity which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Considerations: Interpreters, transliterators, and translators are responsible only for enabling communications and may take a secondary role only as necessary for assuring accurate and faithful interpretation, transliteration, and translation. Interpreters, transliterators, and translators may assume a secondary role when they find it necessary to speak directly to the court to seek assistance in performing their duties, e.g., seeking direction when unable to understand or express a word or thought, requesting that speaker's moderate their rate of communication or repeat or rephrase something, identifying interpreting errors, requesting a recess, requesting copies of documents or requesting a recess to review the documents to be translated or notifying the court of their reservations about their ability to satisfy an assignment completely. In such instances, they should make clear that they are speaking for themselves.

CANON 10: RESTRICTIONS FROM PUBLIC COMMENT

Interpreters, transliterators, and translators shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Considerations: Interpreters, transliterators and translators shall refrain from making public comments or giving opinions or reports concerning any particulars of a case in which they are or have provided professional services, regardless whether the information is privileged or confidential. This restriction does not apply to public comments or reports concerning the field of interpretation.

NAJIT* CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITIES

*National Association of Judiciary Interpreters and Translators

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Preamble

Many persons who come before the courts are non- or limited-English speakers. The function of court interpreters and translators is to remove the language barrier to the extent possible, so that such persons' access to justice is the same as that of similarly situated English speakers for whom no such barrier exists. The degree of trust that is placed in court interpreters and the magnitude of their responsibility necessitate high, uniform ethical standards that will both guide and protect court interpreters in the course of their duties as well as uphold the standards of the profession as a whole.

While many ethical decisions are straightforward, no code of ethics can foresee every conceivable scenario; court interpreters cannot mechanically apply abstract ethical principles to every situation that may arise. This Code is therefore intended not only to set forth fundamental ethical precepts for court interpreters to follow, but also to encourage them to develop their own, well-informed ethical judgment.

Applicability

All NAJIT members are bound to comply with this Code.

Canon 1. Accuracy

Source language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation or paraphrasing. All hedges, false starts and repetitions should be conveyed; also, English words mixed into the other language should be retained, as should culturally bound terms which have no direct equivalent in English, or

which may have more than one meaning. The register, style and tone of the source language should be conserved.

Guessing should be avoided. Court interpreters who do not hear or understand what a speaker has said should seek clarification. Interpreter errors should be corrected for the record as soon as possible.

Canon 2. Impartiality and Conflicts of Interest

Court interpreters and translators are to remain impartial and neutral in proceedings where they serve, and must maintain the appearance of impartiality and neutrality, avoiding unnecessary contact with the parties.

Court interpreters and translators shall abstain from comment on cases in which they serve. Any real or potential conflict of interest shall be immediately disclosed to the Court and all parties as soon as the interpreter or translator becomes aware of such conflict of interest.

Canon 3. Confidentiality

Privileged or confidential information acquired in the course of interpreting or preparing a translation shall not be disclosed by the interpreter or translator without authorization.

Canon 4. Limitations of Practice

Court interpreters and translators shall limit their participation in those matters in which they serve to interpreting and translating, and shall avoid giving advice to the parties or otherwise engaging in activities that can be construed as the practice of law.

Canon 5. Protocol and Demeanor

Court interpreters shall conduct themselves in a manner consistent with the standards and protocol of the court, and shall perform their duties as unobtrusively as possible. Court interpreters are to use the same grammatical person as the speaker. When it becomes necessary to assume a primary role in the communication, they must make it clear that they are speaking for themselves.

Canon 6. Maintenance and Improvement of Skills and Knowledge

Court interpreters and translators shall strive to maintain and improve their interpreting and translation skills and knowledge.

Canon 7. Accurate Representation of Credentials

Court interpreters and translators shall accurately represent their certifications, accreditations, training and pertinent experience.

Canon 8. Impediments to Compliance

Court interpreters and translators shall bring to the Court's attention any circumstance or condition that impedes full compliance with any Canon of this Code, including

interpreter fatigue, inability to hear, or inadequate knowledge of specialized terminology, and must decline assignments under conditions that make such compliance patently impossible.

COURT INTERPRETERS ACT [CITE: 28USC1827]

Effective January 1, 2001

Online at www.wais.access.gpo.gov

[Document not affected by Public Laws enacted between
January 2, 2001 and January 28, 2002]

TITLE 28--JUDICIARY AND JUDICIAL PROCEDURE PART V--PROCEDURE CHAPTER 119--EVIDENCE; WITNESSES

Sec. 1827. Interpreters in courts of the United States

(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.

(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Judicial Improvements and Access to Justice Act.

(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.

(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceedings available upon request.

(2) The clerk of the court, or other court employee designated by the chief judge, shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.

(d)(1) The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise qualified interpreter, in judicial proceedings instituted by the United States, if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including a defendant in a criminal case), or a witness who may present testimony in such judicial proceedings--

(A) speaks only or primarily a language other than the English language; or

(B) suffers from a hearing impairment (whether or not suffering also from a speech impairment)

so as to inhibit such party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony.

(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters, and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.

(e)(1) If any interpreter is unable to communicate effectively with the presiding judicial officer, the United States attorney, a party (including a defendant in a criminal case), or a witness, the presiding judicial officer shall dismiss such interpreter and obtain the services of another interpreter in accordance with this section.

(2) In any judicial proceedings instituted by the United States, if the presiding judicial officer does not appoint an interpreter under subsection (d) of this section, an individual requiring the services of an interpreter may seek assistance of the clerk of court or the Director of the Administrative Office of the United States Courts in obtaining the assistance of a certified interpreter.

(f)(1) Any individual other than a witness who is entitled to interpretation under subsection (d) of this section may waive such interpretation in whole or in part. Such a waiver shall be effective only if approved by the presiding judicial officer and made expressly by such individual on the record after opportunity to consult with counsel and

after the presiding judicial officer has explained to such individual, utilizing the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, the nature and effect of the waiver.

(2) An individual who waives under paragraph (1) of this subsection the right to an interpreter may utilize the services of a non-certified interpreter of such individual's choice whose fees, expenses, and costs shall be paid in the manner provided for the payment of such fees, expenses, and costs of an interpreter appointed under subsection (d) of this section.

(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3).

(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.

(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the court, or other court employee designated by the chief judge, upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.

(5) If the Director of the Administrative Office of the United States Courts finds it necessary to develop and administer criterion-referenced performance examinations for purposes of certification, or other examinations for the selection of otherwise qualified interpreters, the Director may prescribe for each examination a uniform fee for applicants to take such examination. In determining the rate of the fee for each examination, the Director shall consider the fees charged by other organizations for examinations that are similar in scope or nature. Notwithstanding section 3302(b) of title 31, the Director is authorized to provide in any contract or agreement for the development or administration of examinations and the collection of fees that the contractor may retain all or a portion of the fees in payment for the services. Notwithstanding paragraph (6) of this subsection, all fees collected after the effective date of this paragraph and not retained by a contractor shall be deposited in the fund established under section 1931 of this title and shall remain available until expended.

(6) Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director under subsection (b)(3).

(i) The term "presiding judicial officer" as used in this section refers to any judge of a United States district court, including a bankruptcy judge, a United States magistrate

judge, and in the case of grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

(j) The term “judicial proceedings instituted by the United States” as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator) conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term “United States district court” as used in this subsection includes any court which is created by an Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title.

(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer, on such officer’s motion or on the motion of a party, may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.

(l) Notwithstanding any other provision of this section or section 1828, the presiding judicial officer may appoint a certified or otherwise qualified sign language interpreter to provide services to a party, witness, or other participant in a judicial proceeding, whether or not the proceeding is instituted by the United States, if the presiding judicial officer determines, on such officer’s own motion or on the motion of a party or other participant in the proceeding, that such individual suffers from a hearing impairment. The presiding judicial officer shall, subject to the availability of appropriated funds, approve the compensation and expenses payable to sign language interpreters appointed under this section in accordance with the schedule of fees prescribed by the Director under subsection (b)(3) of this section.

(Added Pub. L. 95-539, Sec. 2(a), Oct. 28, 1978, 92 Stat. 2040; amended Pub. L. 100-702, title VII, Secs. 702-710, Nov. 19, 1988, 102 Stat. 4654-4657; Pub. L. 101-650, title III, Sec. 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 104-317, title III, Sec. 306, title IV, Sec. 402(a), Oct. 19, 1996, 110 Stat. 3852, 3854.)

References in Text

The date of the enactment of the Judicial Improvements and Access to Justice Act, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 100-702, which was approved Nov. 19, 1988.

The Judicial Improvements and Access to Justice Act, referred to in subsec. (g)(1), is Pub. L. 100-702, Nov. 19, 1988, 102 Stat. 4642. For complete classification of this Act to the Code, see Short Title note set out under section 1 of this title and Tables.

The effective date of this paragraph, referred to in subsec. (g)(5), is the effective date of Pub. L. 104-317, which was approved Oct. 19, 1996.

Amendments

1996--Subsec. (g)(5), (6). Pub. L. 104-317, Sec. 402(a), added par. (5) and redesignated former par. (5) as (6).

Subsec. (l). Pub. L. 104-317, Sec. 306, added subsec. (l).

1988--Subsec. (a). Pub. L. 100-702, Sec. 702, amended subsec. (a) generally, substituting “certified and otherwise qualified interpreters in judicial proceedings I instituted by the United States” for “interpreters in courts of the United States”.

Subsec. (b). Pub. L. 100-702, Sec. 703, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings and proceedings involving the hearing impaired (whether or not also speech impaired), and in so doing, the Director shall consider the education, training, and experience of those persons. The Director shall maintain a current master list of all interpreters certified by the Director and shall report annually on the frequency of requests for, and the use and effectiveness of, interpreters. The Director shall prescribe a schedule of fees for services rendered by interpreters.”

Subsec. (c). Pub. L. 100-702, Sec. 704, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Each United States district court shall maintain on file in the office of the clerk of court a list of all persons who have been certified as interpreters, including bilingual interpreters and oral or manual interpreters for the hearing impaired (whether or not also speech impaired), by the Director of the Administrative Office of the United States Courts in accordance with the certification program established pursuant to subsection (b) of this section.”

Subsec. (d). Pub. L. 100-702, Secs. 705, 710(a), designated existing provisions as par. (1), in introductory provisions, substituted “qualified interpreter” for “competent interpreter”, “judicial proceedings instituted by the United States” for “any criminal or civil action initiated by the United States in a United States district court (including a petition for a writ of habeas corpus initiated in the name of the United States by a relator)”, and “such judicial proceedings” for “such action”, redesignated former pars. (1) and (2) as subpars. (A) and (B), and added par. (2).

Subsec. (e)(2). Pub. L. 100-702, Sec. 710(b), substituted “judicial proceedings instituted by the United States” for “criminal or civil action in a United States district court”.

Subsec. (g)(1) to (3). Pub. L. 100-702, Sec. 706(a), amended pars. (1) to (3) generally. Prior to amendment, pars. (1) to (3) read as follows:

“(1) Except as otherwise provided in this subsection or section 1828 of this title, the salaries, fees, expenses, and costs incident to providing the services of interpreters under subsection (d) of this section shall be paid by the Director of the Administrative Office of the United States Courts from sums appropriated to the Federal judiciary.

“(2) Such salaries, fees, expenses, and costs that are incurred with respect to government witnesses shall, unless direction is made under paragraph (3) of this subsection, be paid by the Attorney General from sums appropriated to the Department of Justice.

“(3) The presiding judicial officer may in such officer’s discretion direct that all or part of such salaries, fees, expenses, and costs shall be apportioned between or among the parties or shall be taxed as costs in a civil action.”

Subsec. (g)(4), (5). Pub. L. 100-702, Sec. 706(b), added par. (4) and redesignated former par. (4) as (5).

Subsec. (h). Pub. L. 100-702, Sec. 707, amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “In any action in a court of the United States where the presiding judicial officer establishes, fixes, or approves the compensation and expenses payable to an interpreter from funds appropriated to the Federal judiciary, the presiding judicial officer shall not establish, fix, or approve compensation and expenses in excess of the maximum allowable under the schedule of fees for services prescribed pursuant to subsection (b) of this section.”

Subsec. (i). Pub. L. 100-702, Sec. 708, amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: “The term ‘presiding judicial officer’ as used in this section and section 1828 of this title includes a judge of a United States district court, a United States magistrate, and a referee in bankruptcy.”

Subsec. (j). Pub. L. 100-702, Sec. 708, amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: “The term ‘United States district court’ as used in this section and section 1828 of this title includes any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States established by section 132 of this title.”

Subsec. (k). Pub. L. 100-702, Sec. 709, amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: “The interpretation provided by certified interpreters pursuant to this section shall be in the consecutive mode except that the presiding judicial officer, with the approval of all interested parties, may authorize a simultaneous or summary interpretation when such officer determines that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer’s motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.”

Change of Name

“United States magistrate judge” substituted for “United States magistrate” in subsec. (i) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

Effective Date of 1988 Amendment

Section 712 of title VII of Pub. L. 100-702 provided that: “This title [amending this section and enacting provisions set out as notes under this section and section 1 of this title] shall become effective upon the date of enactment [Nov. 19, 1988].”

Effective Date

Section effective ninety days after Oct. 28, 1978, see section 10(b) of Pub. L. 95-539, set out as an Effective Date of 1978 Amendment note under section 602 of this title.

Short Title

For short title of Pub. L. 95-539 as “Court Interpreters Act”, see Short Title of 1978 Amendments note set out under section 1 of this title.

Payment for Contractual Services

Section 402(b) of Pub. L. 104-317 provided that: “Notwithstanding sections 3302(b), 1341, and 1517 of title 31, United States Code, the Director of the Administrative Office of the United States Courts may include in any contract for the development or administration of examinations for interpreters (including such a contract entered into before the date of the enactment of this Act [Oct. 19, 1996]) a provision which permits the contractor to collect and retain fees in payment for contractual services in accordance with section 1827(g)(5) of title 28, United States Code.”

Impact on Existing Programs

Section 711 of title VII of Pub. L. 100-702 provided that: “Nothing in this title [amending this section and enacting provisions set out as notes under this section and section 1 of this title] shall be construed to terminate or diminish existing programs for the certification of interpreters.”

Section Referred to in Other Sections

This section is referred to in section 604 of this title.

TITLE 28--APPENDIX

DOJ LEP GUIDANCE

Available at www.lep.gov

FEDERAL RULES OF EVIDENCE

Article VI. Witnesses

Rule 604. Interpreters

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation.

(Pub. L. 93-595, Sec. 1, Jan. 2, 1975, 88 Stat. 1934; Mar. 2, 1987, eff. Oct. 1, 1987.)

Notes of Advisory Committee on Proposed Rules

The rule implements Rule 43(f) of the Federal Rules of Civil Procedure and Rule 28(b) of the Federal Rules of Criminal Procedure, both of which contain provisions for the appointment and compensation of interpreters.

Notes of Advisory Committee on Rules--1987 Amendment

The amendment is technical. No substantive change is intended.

OHIO REVISED CODE:

ORC § 2311.14 Interpreter provided for person with hearing, speech or other impediment.

Text of Statute

(A) Whenever because of a hearing, speech, or other impairment a party to or witness in a legal proceeding cannot readily understand or communicate, the court shall appoint a qualified interpreter to assist such person.

(B) Before entering upon his duties, the interpreter shall take an oath that he will make a true interpretation of the proceedings to the party or witness, and that he will truly repeat the statements made by such party or witness to the court, to the best of his ability.

(C) The court shall determine a reasonable fee for all such interpreter service which shall be paid out of the same funds as witness fees.

HISTORY: 135 v H 283. Eff 11-21-73.

Not analogous to former RC § 2311.14 (RS § 5137; S&C 1140; 51 v 397; GC § 11390; Bureau of Code Revision, 10-1-53), repealed by § 1 of H 1201 (134 v -).

Former RC § 2311.14 concerned tender of money before suit. See now CivR 68.

RULES OF SUPERINTENDENCE: (Proposed in Ohio)

The Ohio Proposed Rules of Superintendence are guidelines to assist judges when working with interpreters. These rules were drafted by the Interpreter Services Subcommittee of the Ohio's Racial Fairness Implementation Task Force per the recommendations of the Ohio Commission on Racial Fairness. The implementation recommendations were accepted by the Ohio Supreme Court and are in the process of being adopted. The committee consisted of appellate, municipal, and state court judges, attorneys, prosecutors, law enforcement and interpreters, both ASL and Foreign language interpreters. In preparing these rules, the committee reviewed existing state and federal statutes, existing court rules and policies throughout state courts in the United States, and existing case law.

I. Applicability.

(A) This rule shall apply in civil and criminal cases which have been initiated by the state of Ohio, and where a party or witness requests an interpreter; or if the court concludes that a party or witness cannot speak or understand the English language such that the services of an interpreter would permit effective participation in a court proceeding.

(B) The court should conduct an examination of the party or witness on the record and ask primarily open-ended questions to determine whether the services of an interpreter are required pursuant to Section II of this rule.

(C) The court shall appoint more than one interpreter for:

proceedings which are expected to last two or more hours if continuous simultaneous or consecutive interpretation, will be required;
in the case of sign language interpreters, two interpreters may be appointed for hearings lasting less than two hours depending on the circumstances and the complexity of the case;
trials and evidentiary hearings in order to assure that the quality of interpretation does not decrease due to interpreter fatigue; or
proceedings involving a non-English speaking defendant if there will be any non-English speaking witness(es).

(D) Any individual (other than a witness) who is entitled to an interpreter may waive his/her right to an interpreter. Such waiver shall be accepted only if the court has conducted an appropriate inquiry using an interpreter and only after the individual has an opportunity to confer with counsel. The court should permit the waiver to be retracted at any stage of the case or proceeding.

II. Appointment of Certified Interpreters

(A) Except as provided below, the court shall appoint a *certified* interpreter. Unless stipulated by all the parties, the interpreter shall be qualified as an expert in accordance with Ohio Evidence Rule 604.

(B) If no *certified* interpreter exists or is reasonably available, the court shall appoint a *qualified* interpreter.

The court shall consider the gravity of the proceedings and whether the matter could be rescheduled to obtain a *certified* interpreter.

The court shall summarize on the record its efforts to obtain a *certified* interpreter and the reasons for using a non-certified interpreter.

The interpreter's qualifications should be stated on the record, including the extent of the interpreter's experience and training as a court interpreter.

The court should make inquiry of all parties and give each side an opportunity to object to the interpreter.

(C) If no *qualified* interpreter is reasonably available, the court may appoint a language skilled interpreter. But the use of such interpreter in both spoken and sign language is strongly disfavored and should only be used when absolutely necessary.

(D) The administrative judge should designate an individual to coordinate the use of interpreters and whose responsibility would include maintaining a current roster of *certified* and *qualified* interpreters, and developing an effective method of screening and assessing individuals and their qualification in accordance with the following guidelines.

- (1) "Certified interpreter" means a person who has passed the National Center for State Courts Consortium test, or the Federal Court Certification exam;
- (2) In the case of sign language, certification is recognized for interpreters who hold a Specialist Certificate: Legal from the Registry of Interpreters for the Deaf, Inc.;
- (3) Qualified spoken language interpreters consist of persons who have completed a seminar on the Code of Professional Conduct for Judiciary Interpreters and Translators. Membership in good standing in a professional interpreters association. The sponsorship of two active members in good standing who have been members of the same association for at least two years whose language(s) of expertise are the same as the applicant's and who attest to having witnessed the performance of the applicant, as well as to the accuracy of the statements on the application and has passed the state certification exam. A minimum of three years experience in court interpretation. Reference letters attesting to the interpreter's performance and years of experience from judicial officials and a passing score on the written component of the certification exam;
- (4) In the case of sign language interpreters, qualified interpreter consists of persons holding a Comprehensive Skills Certificate, Certificate of Interpretation (CI),

- Certificate of Transliteration (CT), must have both CI and CT, or Certificate of Deaf Interpreting, plus three years of experience in court interpreting;
- (5) Skilled language interpreters are persons who lack the training to be considered qualified interpreters, but who have demonstrated to the satisfaction of the court the ability to interpret from English into a designated language and from that language into English, have attended a seminar on the interpreter's code of ethics and professional responsibilities, and have observed a minimum of 20 hours of in court proceedings.
 - (6) In the case of sign language interpreters, a sign language skilled interpreter are persons who lack the training to be considered qualified interpreters, but who can demonstrate to the satisfaction of the court the ability to interpret sign language. These individuals hold only a CI or CT, have attended a seminar on interpreters code of ethics and professional responsibilities, and have observed a minimum of 20 hours of in court proceedings.
- (E) If the courts must use an interpreter whose language skills are untested, the court should determine on the record whether the interpreter:
Communicates effectively with the officers of the court and the person(s) who is receiving the interpreting services.
Knows the Code of Professional Responsibilities and is able and willing to comply with the code; and
Is prepared to take the interpreter's oath as in R.C. §2311.14 and as set forth below.
- (F) It is the court's duty to inquire regarding the qualifications, training, and pertinent experience of any interpreter even if provided by a language agency as set forth above.

III. Prior Contact with the Case and Interpreter's Oath

- (A) Before being sworn to serve on a case, an interpreter shall be required to disclose on the record to the court and to the parties any prior involvement with the case or with any party or witness involved therein.
- (B) The presiding judicial officer is responsible for administering the oath in accordance with Ohio Evidence Rule 604.
- (C) The name of the interpreter shall be placed on the record and noted on the docket. The record should reflect the interpreter's certification and/or qualifications, pertinent experience, training, and the language of fluency.
- (D) The court shall administer an oath that the interpreter will make a true and accurate interpretation of the proceedings to the party or witness, and that he/she will truly repeat the statements made by such party or witness to the court, to the best of his/her knowledge.

IV. Record of Interpreted Testimony and Special Audio Equipment

(A) In criminal trials and evidentiary hearings, the court shall require the proceedings be electronically recorded to permit a record of all sworn testimony and its interpretation regardless of the qualifications of the interpreter. In criminal proceedings involving sign language interpreters, the testimony and interpretation shall be video taped.

(B) In non-criminal trials, particularly when an uncertified interpreter renders interpretation, the court shall order the proceedings to be electronically monitored.

(C) For trials and multiple defendant cases, and for hard of hearing person, the judge shall order the use of special audio equipment when necessary to aid in interpretation of court proceedings. The parties shall give timely notice to the clerk to facilitate arrangements for locating, borrowing or renting, and installing appropriate equipment.

V. Modes of Interpretation

(A) The modes of interpretation shall be in the simultaneous, consecutive and sight translation modes. Summary interpretation should never be used.

The simultaneous mode of interpretation is used during all court proceedings where the non-English speaking person is listening or the judge is speaking directly to that person (e.g., trial, jury instructions, the judge is addressing an officer of the court or any other person other than the non-English speaking person, or reading of rights.)

The consecutive mode is used when the non-English speaking person is giving testimony or the judge or other officer of the court is communicating directly with said individual and is expecting responses.

Sight translation is the oral translation of a written document into the target language.

(B) All interpretation must be done in the first person in order for the court record to be accurate. The third person is used only when the interpreter is speaking for himself or herself.

VI. Effective Use of an Interpreter

(A) In order to maximize communication during interpreted proceedings, the court should:

- (1) Instruct persons to speak slowly and at an appropriate volume for the interpreter to hear and should permit only one person to speak at a time;
- (2) Seek to avoid interpreter fatigue by providing opportunity for the interpreter to have regular breaks.
- (3) Instruct persons to direct the questions and responses directly to the party, witness, counsel or judge. Questions or responses should not be to the interpreter.

(B) In proceedings involving an interpreter, the court should provide instructions which include the following information, as applicable:

When the interpreter is interpreting for a party, the interpreter should be instructed to interpret all statements made in open court including statements made by the judge to the interpreter, objections and statements of counsel.

Any questions by a party should be directed to counsel. During witness testimony, the witness shall be cautioned that any statement, questions or answers directed to the interpreter will be interpreted in open court. Witnesses should be instructed to direct any questions to the person asking the question not the interpreter.

Likewise, counsel should be instructed to direct the questions to the witness and not the interpreter.

When proceedings involve interpreted witness testimony, the witness should be instructed to direct all questions to the person asking the question, not to the interpreter.

In open court, the interpreter shall be cautioned that he/she cannot give any advice; personal opinions; carry on conversations with a party, counsel, or judge during trials. An interpreter may communicate with a party, witness, or judge during the proceeding so long as the communication carried out their professional duties and/or dealing with language expertise.

The interpreter will be instructed that the interpreter is an officer of the court and must remain impartial at all times. If the interpreter cannot meet this duty, the interpreter shall recuse himself/herself. If the judge, the parties, and/or the attorneys become aware of the interpreter giving any advice or opinions, the interpreter shall be removed immediately.

Any challenges relating to the interpreter or interpretation or any allegation of error should be brought to the attention of the judge and should be handled as a side bar outside the presence of the jury without unnecessary delay. The interpreter has a duty to immediately inform the court of any errors in interpretation.

(C) In any trial in which an interpreter will be used, the court shall inquire whether any jurors understand the language to be interpreted.

(D) Jurors should be instructed that:

- They should treat the interpretation of witness testimony as if the witness had spoken and no interpreter was present.
- They must not give any weight to the fact that the witness, defendant or party cannot speak the English language and requires the services of an interpreter and jurors may not consider the use of an interpreter when evaluating a witness' credibility.
- Jurors shall be instructed that any juror who understands the witness' language must disregard any interpretation other than the official interpretation rendered in English and must disregard any perceived errors by the interpreter.

(E) In any trial in which an interpreter will be used, the court should voir dire the prospective jurors regarding their ability to comply with the above instructions.

VII. Removal of Interpreter

- (A) Any of the following actions shall be good cause for the removal of the interpreter.
- The interpreter is unable to communicate and interpret adequately with the parties, judge, and/or counsel, including self-reported inability.
 - The interpreter knowingly and willfully made false interpretation while serving in an official capacity.
 - The interpreter knowingly and willfully disclosed confidential or privileged information while serving in an official capacity.
 - The interpreter failed to follow other standards prescribed by law and/or the Code of Ethics and Conduct.

VIII. Compensation and Expense of Interpreter Services

- (A) Except as otherwise provided in the Ohio Revised Code, the court is responsible for the payment of court interpreters from within the courts own budget and should not be assessed to the parties as cost.

The selection of an interpreter does not constitute an appointment of that person as an employee of the state, county or municipality, except in respect to an interpreter who otherwise is an employee of the state, county or municipality by prior appointment.

Income taxes or social security taxes shall not be deducted from a contract interpreter's compensation. Social security benefits for the contract interpreter shall be based entirely on the interpreter's contribution as a self-employed individual, and the state shall make no contribution as an employee.

The clerk shall prepare and transmit annually to each contract interpreter the appropriate Internal Revenue Service form(s).

- (B) The court shall not select as an interpreter:
- a person who is compensated by a business owned or controlled by the interested party;
 - an attorney who has vested interests in the outcome of the case before the court;
 - a family member;
 - a person who has a close relation with any of the parties, or
 - a person who has an interest monetary or otherwise in the outcome of the case.

- (C) The court shall be responsible for payment of interpreters for all court proceedings both criminal and civil.

The fees shall be paid from the appropriations available to the judiciary and determined by courts of common pleas or the municipal court of each jurisdiction. The court shall pay travel and other per diem cost when necessary to assure that certified interpreters are available.

GETTING IT RIGHT BY DOING IT RIGHT: Mile Markers On the Road Across the Linguistic Divide³

- ☞ To keep costs down and avoid unnecessary redundancy, share financial and planning resources with other organizations serving the same general population. Having three groups independently develop language assistance plans does not make the product three times better, but more likely to repeat similar mistakes.
- ☞ Become familiar with and take advantage of all the resources and technical assistance (often free) available through or provided by professional associations of interpreters and translators.⁴
- ☞ To ensure consistency in approach and implementation, develop a uniform working manual on interpreting and translating services for use throughout your agency or by all related agencies serving a common geographic area. Before final adoption, consider soliciting the comments and suggestions of professional interpreter organizations (*e.g.*, National Association of Judiciary Interpreters and Translators, American Translators Association, National Council on Health Care Interpreting), and local and national representatives of language minority advocacy groups.
- ☞ Develop and implement a training program for staff on language services (with particular emphasis on ensuring competent interpreting and translating services), ethics, certification standards, protocol and legal issues. After the development of a language assistance plan, acquiring a knowledgeable staff is the next critical step towards effective, cost-effective language assistance.
- ☞ Become familiar with applicable statutes governing the use of interpreters as well as the policies of the major interpreter organizations with respect to canon of ethics, professional responsibility, certification/testing standards, and other professional requirements. Consider incorporating these standards and policies as the foundation for your own internal language assistance plan.
- ☞ Sometimes the language you need is not the language you know or for which you have certified interpreters. Identify the uncommon languages you are likely to encounter. Develop, with the assistance of groups such as NAJIT, SSTI (NAJIT's interpreter certification arm), the NSCS State Court Certification Consortium, and others, possible alternatives to formal certification programs to ensure interpreter competence.
- ☞ In all settings involving legal rights (*e.g.*, investigative interviews, trials, administrative hearings) or confidential medical or personal information, contract interpreters of all languages should undergo criminal background checks.
- ☞ To ensure quality, keep an actively updated database of names and addresses of frequently used language agencies and certified or qualified contract interpreters

and translators to make available to all agency components. For many languages and locations, an initial list can be developed based on information available from NAJIT, ATA, local state and federal courts, NCSC State Court Certification Consortium States and other professional interpreting and translating organizations.

- ☞ Learn the characteristics of a quality language agency. They should
 - provide interpreter references and records of credentials to the client at all times;
 - abide by the profession's standards, training and skills requirements;
 - follow established law and/or standard procedures applicable to the particular client requesting interpreter and translating services.
 - apply the same quality assurance requirements to both independent subcontractors and agency staff interpreters.

Hiring independent contract interpreters and translators is often less expensive than hiring interpreters and translators through language agencies.

- ☞ Some language agencies do not screen the interpreters they use, and some agencies claim to certify interpreters or certain uses. You may want to inquire as to the methods that an agency uses to screen for language proficiency and as to what (if any) training they provide.

- ☞ Knowing the difference can often make the difference.

- Translation involves converting a text written in one language into its equivalent in another language.
- Interpretation is rendering the spoken words in one language into another language.
- Each requires different skills, training and knowledge.
- Learn how to identify the different modes of professional interpretation so you will know what to ask for and can assess what you are getting.

- Simultaneous Interpretation-used to convey all courtroom discourse where the non-English speaking or LEP person is listening to the proceedings, (e.g., advisement of rights, trial, hearing, plea, sentencing.)
- Consecutive Interpretation-used when a non-English speaking person is testifying or responding to the judicial officer's questions. The consecutive mode is the mode used in out-of-court settings such as interviews, probation, medical. interrogation, attorney/client etc.
- Sight Translation-the oral translation of a written document into the target language. The interpreter must be given a few minutes to review the document before translating.

- ☞ Friends don't let friends interpret. Friends and family members should not be used to provide interpretation, specifically in a legal or quasi-legal setting. Friends and family members are not neutral parties, lack the requisite skill and training, and

might have an interest in the outcome of the case adverse to that of the non-English speaker.

- ☞ Being bilingual is not sufficient for being a court interpreter or for interpreting in other settings where what the non-English speaker says is critical. Court interpreting is a highly skilled profession that requires training, education, experience and knowledge of legal terminology in both languages and additional interpreting skills, note taking skills and good short-term memory.
- ☞ Identify the areas or types of interactions with non-English speakers where the need for accuracy demands competent interpretation. Develop solutions for ensuring language proficiency through testing for bilingual staff or through other methods.

IF ALL ELSE FAILS, ASK YOURSELF, IF THIS WERE AN ENGLISH SPEAKER HOW WOULD I PROCEED IN THIS SITUATION? THE ANSWER YOU COME UP WITH SHOULD BE THE SAME ANSWER WHEN DEALING WITH A NON-ENGLISH OR LEP PERSON. JUST BECAUSE AN INTERPRETER IS PRESENT IS NO REASON TO DEVIATE FROM ANY STANDARD PROCEDURES ALREADY ESTABLISHED BY LAW OR BY THE PARTICULAR ORGANIZATION.

Interpreter Standards and Resources--Links

	Organization/Resource	Link	Comments/Notes
ORGANIZATION	The National Association of Judiciary Interpreters and Translators (NAJIT)	http://www.najit.org	Click on Proteus to view articles of interest
	Tennessee Association of Professional Interpreters and Translators (TAPIT)	Marvyn Bacigalupo at: langservicesmhb@mindspring.com or Judith Kenigson-Kristy at judith@kristycomm.com	
	NATI: Nebraska Association for Translators & Interpreters	http://www.natihq.org/	
	Arizona Court Interpreters Association	http://www.aciaonline.org	
	Bay Area Court Interpreters (BACI), California	http://baci.org/	
	California Court Interpreters Association (CCIA)	http://www.ccia.org/	
	AIIC - International Association of Conference Interpreters (AIIC)	http://www.aiic.net/	
	American Translators Association	http://www.atanet.org/bin/view.pl/13653.html	
	Community and Court Interpreters of the Ohio Valley (CCIO)	http://www.ccio.org/	Click on resources to view canon of ethics. Click on newsletter to view articles of interest
	California Healthcare Interpreters Association	http://www.chia.ws/standards/draft_home.htm	
	American Society for Testing and Materials	See www.astm.org or email service@astm.org or fax inquiry to 610-832-9555	The ASTM has published an industry standard for the interpretation field. Request <i>F2089-01 Standard Guide for Language Interpretation Services</i> .

COURT	Ohio Supreme Court Racial Fairness Project	http://racialfairness.org/find_out_more.htm	Scroll down to interpreter services to view articles and case law on interpreters
	State Court Interpreter Programs	http://www.ncsc.dni.us/RESEARCH/INTERP/index.html	Scroll down to *Links to related pages* you will find a list of each individual NCSC Member State court interpreter program
	State Court Rules for Language Interpreters	http://www.ncsc.dni.us/is/MEMOS/S99-1242.htm	
	Federal District Court, S.D.N.Y. Interpreter Program	http://sdnyinterpreters.org	
	Rules Governing Licensed Court Interpreters	http://www.license.state.tx.us/COURT/RULES/Courtuleseffective-101801.htm	
	State of Missouri Administrative Rules	http://www.sos.state.mo.us/adrules/csr/current/4csr/4c232-3.pdf	
RESOURCES	Registry of Interpreters for the Deaf	http://www.rid.org/	
	What is Court Interpreting?	http://www.aiic.net/ViewPage.cfm/page239.htm	
	A Bibliography on Court & Legal Interpreting	http://www.aiic.net/ViewPage.cfm/article146.htm	
	Working With Interpreters	http://www.yillc.com/cle/interp.htm	
	An Interpreter Checklist	http://www.nacdl.org/CHAMPION/ARTICLES/98jun03.htm	
	National Council on Health Care Interpreting	http://www.ncihc.org/Draft_Code_Ethics.pdf	