

Lincoln Police Department

Language Access Plan Accommodating Persons with Limited English Proficiency



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Limited English Proficiency Committee Members

Captain Terrence Sherrill

Officer Shane Alesch

Officer Jorge Dimas

Modesta Putla Rajkumar

Executive Director

Asian Community & Cultural Center

Erick Saavedra

Program Facilitator

El Centro de las Americas

“Language is a city to the building of which every human being brought a stone.”

Ralph Waldo Emerson 1803-1882

Introduction

On August 11, 2000, President William J. Clinton signed an executive order, Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiency, to clarify Title VI of the Civil Rights Act of 1964. Its purpose was to ensure accessibility to programs and services to persons who are not proficient in the English language.

This executive order states that individuals who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounter. These individuals are referred to as being limited English proficient, or “LEP”.

EO 13166 requires all federal agencies to prepare a plan to improve access to federally conducted programs and activities by eligible LEP persons. Not only do all federal agencies have to develop LEP Plans but recipients of federal funding as a condition of receiving federal financial assistance have to comply with Title VI and LEP guidelines of the federal agency that provides the funds.

Federal financial assistance includes but is not limited to direct grants and subsidies as well as training, use of equipment, donations of surplus property, and other indirect assistance. Recipients of federal funds range from state and local governmental agencies, to private nonprofits and other types of organizations. Simply put, **any organization that receives federal financial assistance is required to follow Executive Order 13166.**

Recipients of federal financial assistance have a responsibility to take reasonable steps to provide LEP individuals with meaningful access to their programs and activities. Title VI and its accompanying regulations prohibit recipients from discriminating on the basis of race, color, or national origin.

Discrimination on the basis of national origin can occur if a recipient does not provide appropriate language assistance to LEP individuals because these individuals, whose language is usually tied to their national origin, will not have access to the same benefits, services, information or rights that the recipient provides to everyone else. Thus, in certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs may violate Title VI and its regulations prohibiting national origin discrimination.

Elements of an Effective LEP Plan

The U.S. Department of Justice, Civil Rights Division has developed a set of elements that may be helpful in designing a LEP plan or policy. These elements include:

1. Identifying LEP persons who need language assistance
2. Identifying ways in which language assistance will be provided
3. Staff Training
4. Providing notice to LEP persons
5. Monitoring and updating the LEP plan or policy

These recommended plan elements have been incorporated into this document.

Guiding Principals for Formulating a LEP Plan

The U.S. Department of Justice also provides four guiding principals to law enforcement agencies and other recipients who are formulating a LEP plan. When examined, these four factors lead to a plan that determines what type of language assistance needs to be provided in order to be compliant with EO13166 and reasonable steps to deliver meaningful access for LEP individuals.

The Department of Justice uses this four-factor analysis to evaluate whether police departments and other recipients of federal financial assistance are in compliance with Title VI. The overall standard underlying the four-factor analysis is one of reasonableness. Police departments are viewed in the context of their community's demographics, and the capabilities, needs and conditions with which they operate.

Factor 1: Consider the number or proportion of LEP people in the eligible service population.

Factor 2: Consider how frequently officers come into contact with LEP persons.

Factor 3: Consider the importance to the LEP person of various services, benefits, or information the department provides.

Factor 4: Consider the resources available and the costs of providing various language services to LEP people.

THE LINCOLN POLICE DEPARTMENT LANGUAGE ACCESS PLAN FOR LIMITED ENGLISH PROFICIENT PERSONS

Mission

“We the members of the Lincoln Police Department, working with all people, are committed to providing quality police services that promote a safe and secure community”

Goal of the Language Access Plan

It is the goal of the Lincoln Police Department to ensure that the quality and availability of police services be delivered to all persons in an equal manner. Quality and availability of service should not be dependent on language skills. An overall objective of the Lincoln Police Department’s Language Access Plan is to take reasonable steps to provide timely and meaningful access to the services and benefits that LPD provides to the degree practicable.

Members of the Lincoln Police Department will provide access to free language assistance for LEP individuals whom they encounter when a language barrier is evident or whenever the LEP person requests language assistance services. It is also our objective to inform members of the public that language assistance services are available free of charge to LEP persons who have encounters with law enforcement.

The Commanding Officer of the Education and Personnel unit is designated as the Department’s language access plan coordinator. The commander will manage the plan, identify any areas in need of improvement, collect data and set measures to monitor the success of the plan. The language access plan will be reviewed and updated as necessary on an annual basis. The review should also include contact with external networking resources and feedback from language service providers external to the department.

I. Limited English Proficient (LEP) Population Assessment (Factor-1)

Lincoln is the 72nd largest City in the United States with a population of over 250,000. The City has a sustained growth rate of approximately 1.5% annually. This means we add about 3,500 residents every year. This number does not include estimates for migrant workforce or transient populations.

Lincoln is also becoming a more diverse City. One example can be found in our school system that has now grown to include approximately 35,000 students. The English Language Learner (ELL) program provides instruction and extra support, if needed, to facilitate language acquisition and integration of the students into the full school curriculum. ELL serves students in grades K-12 (ages 5-21) from 60 different nationalities with a variety of 50 different languages.

The ELL program served 995 students or 3.3% of the total student population in the 1998-99 school year. In the 2008-09 school year LPS served 2,175 ELL students, or

6.4% of the total school population. This represents a 100% increase in the ELL numbers in a 10 year period.

Another assessment tool is the most recent U. S. Census update from 2007. In 2007, 9.4% of those 5 years old and older, or approximately 21,000 persons in Lincoln responded that they speak English less than “very well”. These updates are a snapshot in time and these reported numbers will change or shift from year-to-year.

Source: U.S. Census Bureau, 2007 American Community Survey

Lincoln Nebraska	
2007 Percent Distribution U.S. Census Bureau	
Language Spoken At Home	
Population 5 years and older	231,329
English only	88.80%
Language other than English	11.20%
Speak English less than “very well”	4.70%
Spanish	4.40%
Speak English less than “very well”	2.30%
Other Indo-European languages	2.90%
Speak English less than “very well”	0.80%
Asian and Pacific Islander languages	2.80%
Speak English less than “very well”	1.30%
Other languages	1.20%
Speak English less than “very well”	0.30%

The odds of encountering an LEP person during routine police service are much greater today due to increasing population and greater language diversity.

The Lincoln Police Department has recognized this change and over time has taken the following actions to engage and communicate with a diverse community:

- Maintain an interpreter program
- Utilize telephonic interpreter services
- Translation of some forms, brochures and website information
- Have a full-time Spanish speaking employee in Records to translate and transcribe reports and assist with inquiries at the front counter and at the Service Desk
- Have a part-time Spanish speaking employee in the Victim Witness Unit who provides access to services. Domestic violence cases are an emphasis.
- Recruiting of bilingual officers
- Provide extra pay for bilingual officers
- Train all of our officers in “Survival Spanish”
- Scheduling informal bilingual officer visits at El Centro de las Americas

- Outreach programs at community centers
- Police recruits in the LPD Police Academy spend a day visiting our various cultural centers

These actions represent persons, programs or activities that are currently in place to address the growing language diversity in our community and to provide meaningful access to department programs and services. These actions represent what we can do and we want to retain them and make them part of the overall language access plan.

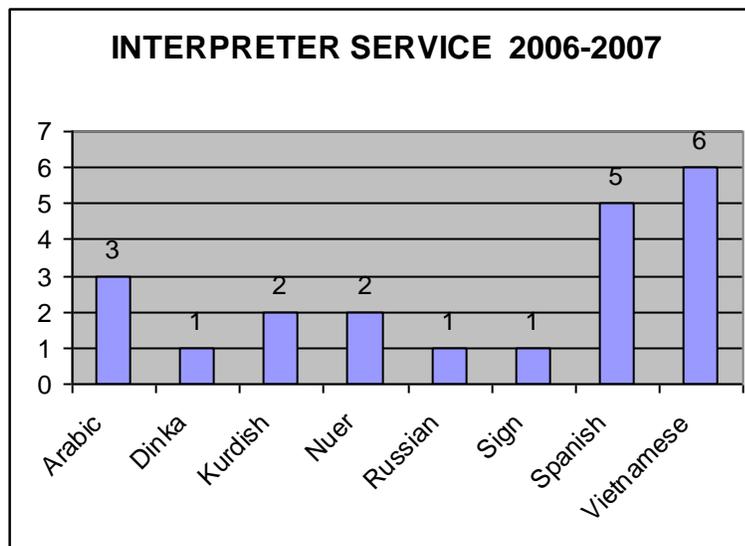
Casual interaction with bilingual officers at community centers and outreach programs allow time to build trust and forge solid relationships. Other persons or programs are housed in a police setting to serve LEP persons to ensure equal access and equal service. An annual review of this plan should include revisiting these actions to determine their relevance and any need for change.

II. Frequency of Contact (interpreter needs) with LEP Individuals (Factor 2)

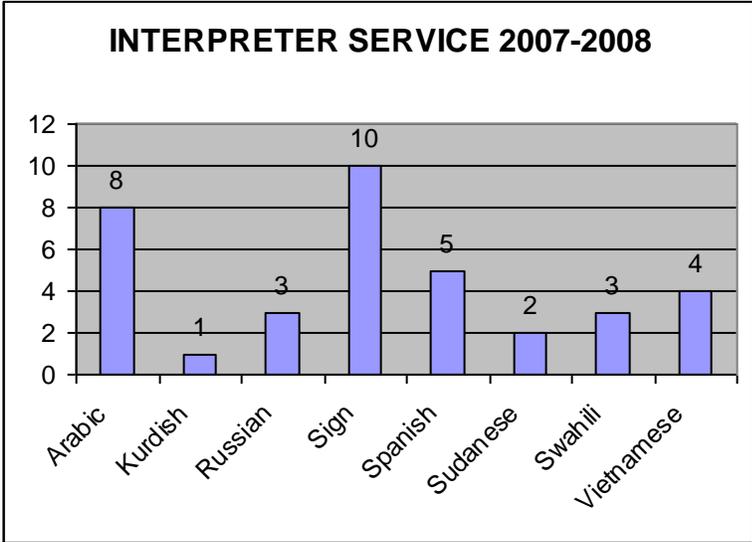
The use of all paid interpreters is tracked by the LPD Accounting Manager and a ledger of payment is recorded. Guidelines for the use of an interpreter is established in LPD policy and forms documenting interpreter service are prepared by the officer or employee and are forwarded to the Accounting Manager before reimbursement can be made.

In the instance a bilingual officer is used to interpret, a dispatch record is made that serves as an activity listing for the officer involved. The dispatch record includes date, times and location where the bilingual officer provided the service.

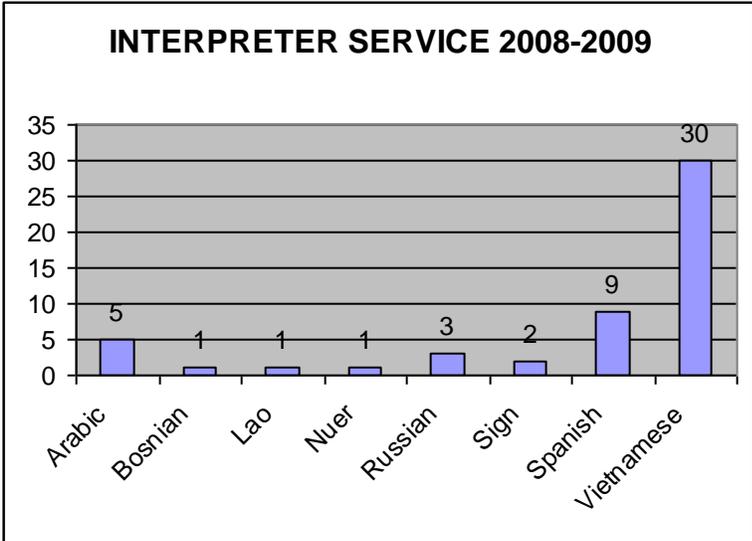
A graphic display of the LPD Accounting Manager’s records for the past three fiscal years provide information on paid interpreter frequency and languages requested.



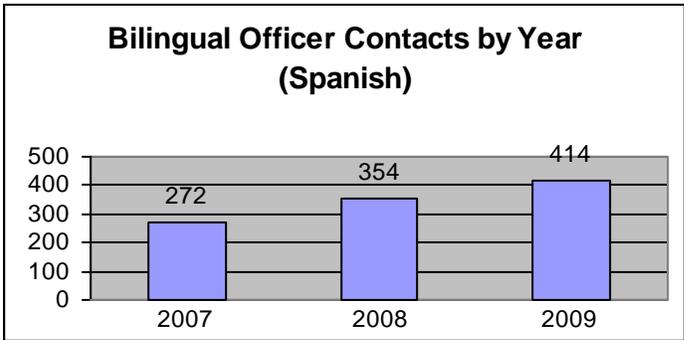
Total 21



Total 36



Total 52



In reviewing 3 years of data it is evident that we do not require a large amount of paid interpreter service. It is also our finding that frequency of interpreter services may depend on police investigations leading to further interviews and interpreter services with LEP individuals. The totals for Spanish speaking encounters requiring paid interpreter service will always be skewed because bilingual officers in the field will be handling a majority of the requests. Activity data indicates LPD bilingual officers average 347 encounters per year with Spanish speaking LEP persons. Each encounter averages 36 minutes.

The ledger data reveals Spanish, Vietnamese, Arabic and Russian LEP individuals require the greatest use of paid interpreters. The number of Sign Language interpretations is also significant. Nebraska statutes require law enforcement use and hire an ASL interpreter licensed through the Nebraska Commission for the Deaf & Hard of Hearing when needed.

Establishing a pool of language service providers

Most of our current language access resources are devoted to serving the largest ethnic group which is the Spanish speakers who may also be LEP. The Lincoln Police Department has five bilingual field officers, all speak Spanish. “Survival Spanish” is taught to all police recruits in our police academy. A Spanish speaking LPD employee is in place in the Records Unit and in the Victim Witness Unit to interpret and provide a way to access department services.

Our call-out pool of qualified contract interpreters for all languages was examined and we spent a great deal of time researching the qualifications of local interpreter services. After comparing and contrasting these services the committee recommends using interpreters listed with the Nebraska Supreme Court as Registered and Certified Court Interpreters. Their training, code of conduct, and understanding of the criminal justice system are second to none in Nebraska. We believe that the use of registered and certified court interpreters would generate less scrutiny of case interviews and statements. The rate of pay for a registered court interpreter is set by the state court and is similar to the amounts we pay to other interpreter services. The list of registered and certified interpreters is available to us and we recommend that all of them be contacted and offered the opportunity to be included on the LPD call-out list.

In the event the Certified or Registered interpreters are not available, we recommend that other interpreter services or qualified individuals be used. In actuality our interpreter list will always be a blend because registered court interpreters don't cover every language we encounter. Our preference would be court registered interpreters first, then other interpreter services to include cultural centers and as a final option a telephonic interpreter service. In cases where a serious crime has occurred or legal rights are in question it is always recommended to use a certified or registered court interpreter as a first choice.

III. The Nature and Importance of the Program, Activity, or Service to the LEP Community (Factor-3)

The Lincoln Police Department is responsible for a wide range of services. Our most important is the direct service given by police officers in the field. Some services have more serious implications than others. Situations such as arrests or warrant service will be viewed as having a higher priority than belated crimes or non-injury traffic accidents. In general, the more important the law enforcement activity or the greater the possible consequences for an LEP person, the more likely it is that language services are needed to ensure both the officer and the community that respect for the civil rights of the victim, witness and defendant have been considered. Miscommunication can lead to misunderstandings and added tension or could result in the loss of crucial information or evidence gathering opportunities. Serious consequences for LEP individuals could result where constitutional or other legally mandated rights are at stake in a particular police action, such as the delivery of Miranda warnings.

Immediate allocation of language assistance resources are more crucial during activities where safety or civil rights are involved than they are during police actions that have less serious consequences, such as assisting with directions or making a service referral. LPD is able to meet many service demands very quickly through the use of our bilingual officers. These officers respond while on duty and can often be working with an LEP individual within minutes. Bilingual officers can always access and transition to an expert interpreter if a situation requires.

Lincoln Police officers should refrain from using children, friends and family members to provide language assistance during police investigations for a number of reasons. First and foremost, family, friends and children are not neutral parties. Secondly, they were not tested for language proficiency, nor are they trained in legal interpreting and translating and so may not know the limitations of their role as an interpreter rather than as a friend or family member. It is also possible they may have an interest in the outcome of the case, or may be potential suspects themselves and so may be biased or may even purposefully alter or withhold information that could put the officer or public in danger.

It is imperative that we provide language access to all services and programs we conduct. We must also see it as an obligation to inform the community that LEP individuals can and will receive free language assistance in all circumstances whether it be a bilingual officer or an interpreter who provides the language access.

An important part of the Language Access Plan is that all LPD personnel will be trained to recognize a language barrier and how to access our bilingual personnel or an interpreter via our web based interpreter listing. Language Identification Flashcards prepared by the Census Bureau can aid employees in identifying the language of a LEP individual. Flashcards have been placed at all public service access points in all police buildings. This coordinated assistance should provide equal access to all services or programs.

IV. The Resources Available to LPD and the Overall Cost (Factor 4)

The average cost for contracted interpreter service based on the last three years of data is approximately \$2,000 per year. This is quite manageable but could fluctuate based on need or circumstance. Language Line billing is also minimal. LPD uses a Language Line interpreter 10-12 times per year.

Officers who are bilingual receive a monthly stipend for their service. This is built into our budget at \$1,200 per officer - per year. We currently budget for 5 officers. This is not an expensive item, in fact; we could use more officers to assist with interpretation. Interested officers are given the Versant for Spanish test. The instrument is the property of Pearson Education Inc. The officer or employee must pass the fluency component before they can be considered a bilingual officer or interpreter. The current cost is \$40.00 per test.

Our resources consist of our own bilingual officers, a maintained list of interpreters who can be called out to assist and a nationwide language telephone line as a last resort. Our interpreter list for call-outs and other assistance has accurate contact and language skill information. To be an interpreter on the LPD call-out list one must undergo a criminal background check, possess some type of credential or proof of formal training and receive instruction from the LPD Volunteer Coordinator on LPD policy and procedure.

The interpreters list is maintained by the LPD Volunteer Coordinator and is updated whenever an interpreter is added or deleted. The list is made available to all employees on the LPD internal webpage. To ensure availability of an interpreter, LPD employees must contact the LPD Service Desk to make the call as outlined in General Order 1775 – Interpreters. Bilingual officers will be dispatched or requested over police radio channels.

We recognize the need for highly accurate, specialized and unbiased interpretation in serious criminal investigations. We believe our current strategy to obtain qualified call-out interpreters will prove to be a reliable and smooth procedure.

The Future

Going forward we would like to work together to meet the needs of LEP persons in our community. This Language Access Plan is just one step in the process. Our committee has an on-going interest in interpreter issues such as credentialing, interpreter education, professional ethics and standards of practice. Our research leads us to believe that a national standard may soon be set that will require a test for fluency and course work on ethics and interpreter roles. Absent any current standard for law enforcement interpreting, the Nebraska Supreme Court testing and credentialing of court interpreters, in our opinion, is the best current practice for interpreter evaluation we have come across in the state of Nebraska.

We also believe that a new committee should be created, led by LPD or some other entity that would consist of interpreter service representatives, interpreter educators and interpreter users that will work to identify some common goals and expectations in serving LEP persons. We know this common interest exists because our committee sought the opinions and input of outside advisory members who reviewed this plan and gave us feedback. All had experience with LEP plans. The response to our request for feedback was enthusiastic and welcoming. This group could also continue to explore emerging issues with LEP persons and any changing standards for interpreters.

We believe that this committee or any on-going committee should embrace the idea of working together on grant applications that would be of mutual interest. Grant funds to study the public's perception and need of language access, or establishment of an affordable and accessible interpreter service pool or defining qualifications and credentials for interpreters working with law enforcement in police settings are most appealing. However, other topics or interest areas may emerge with continued dialog.

Summary

We believe this plan and our current language access strategy are adequate to meet the immediate needs of LEP persons in our community. The overall language access plan outlines reasonable steps to provide meaningful access for LEP persons. Our shortcomings are; 1) In the area of informing the public that we provide interpreter service free of charge for all LEP persons and 2) Communicating to all LPD employees the requirement for LEP access. Dissemination to the public of this plan and training LPD employees on the use of it will be helpful in eliminating those shortcomings.

The purpose of the LPD Language Access Plan is to ensure that the quality and availability of police services is equally extended to all persons and is not dependent on language skills. The committee recommends at least an annual review of this plan and the dissemination of the plan to all LPD employees and community organizations that serve LEP populations to raise awareness of our efforts to serve Lincoln's growing LEP population.