



Office of Law Enforcement Oversight (OLEO)

March 20, 2023

TO: Patti Cole-Tindall, Sheriff, King County Sheriff's Office (Sheriff's Office)

CC: Jesse Anderson, Undersheriff, Sheriff's Office  
Jonathan Hoffman, Professional Standards Manager, Sheriff's Office  
Karan Gill, Deputy Chief of Staff, King County Executive Office (KCEO)  
Anita Whitfield, Chief Equity and Inclusion Officer, KCEO

FR: Tamer Abouzeid, Director, Office of Law Enforcement Oversight (OLEO)

RE: Using Interpreters, General Orders Manual (GOM) 16.04.000 and GOM 6.00.000

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In response to Internal Investigation number IIU2022-175, OLEO has reviewed the Sheriff's Office's GOM 16.04.000 on Using Interpreters. As noted in OLEO's letter to the Internal Investigations Unit on November 30, 2022, GOM 16.04.000 addresses some requirements for when and how interpreters are used, but largely applies only to sign language interpretation for hearing-impaired individuals and does not adequately address protocols for interactions with limited-English proficiency (LEP) individuals.

Additionally, per GOM 6.00.000 on Use of Force, deputies are instructed to consider language barriers in decision-making to employ and modulate physical force. However, the policy does not provide adequate detail on language access resources or protocols for reporting on language barriers and use of force.

For clarity and consistency, the Sheriff's Office should develop and adopt a robust language-access policy in line with federal guidelines, King County Ordinance (KCC §2.15.030), County Language and Communications Access requirements, and national best practice. **This memo outlines recommendations to revise Sheriff's Office policy in Chapters 16 and 6 of the GOM to improve language access for hearing-impaired and LEP individuals.**

In preparation for making recommendations for changes to the policy, OLEO reviewed language access policies in peer jurisdictions as well as best practice research from the Department of Justice,<sup>i</sup> International Association of Chiefs of Police,<sup>ii</sup> and the Vera Institute for Justice.<sup>iii</sup>

With the aim of ensuring timely and accurate communication and language access to Sheriff's Office services to all individuals regardless of primary language,<sup>iv</sup> national origin, or disability, OLEO issues the following recommendations:

RECOMMENDATION 1.

**Stipulate that interpretation services be provided during any law enforcement activity with a hearing-impaired or LEP individual.**

Currently – and in accordance with RCW 2.43.120 – GOM 16.04.000 specifies scenarios when a sign language interpreter shall be called, i.e., for hearing-impaired individuals. The policy provides no similar guidance concerning LEP individuals.

OLEO's recommendation is that an interpreter be contacted for any law enforcement activity with a hearing-impaired or LEP individual unless the individual requests otherwise<sup>v</sup> and for any interview with a minor child whose parent, guardian, or custodian is hearing-impaired or with LEP. In the case of arrest of hearing-impaired or LEP individuals, all interviews should be deferred pending access to an interpreter.

This recommendation removes the limitation to call an interpreter only in interactions related to criminal investigations and brings Sheriff's Office policy into alignment with federal guidelines and King County Ordinance requiring equal language access to all services.<sup>vi</sup> Additionally, following the practice of peer jurisdictions, OLEO recommends that when the Sheriff's Office is dispatched to an incident involving a hearing-impaired or LEP individual, interpretation services are provided at the scene.<sup>vii</sup> The Sheriff's Office should work with the County Office of Equity, Racial and Social Justice to establish a protocol for dispatching qualified in-person interpreters.<sup>viii</sup>

RECOMMENDATION 2.

**Clarify that interpreters shall be called for law enforcement activities regardless of the individual's status as a victim, witness, or suspect.**

The current policy in Chapter 16 states that a sign language interpreter shall be called for a victim or witness who is hearing-impaired. However, state law is clear that an interpreter shall be called whether the individual is a victim, witness, or suspect<sup>ix</sup>.

RECOMMENDATION 3.

**Codify additional interpreter services for LEP individuals beyond the AT&T Language line.**

Current policy in Chapter 16 does not provide protocol for interpretation by qualified in-person interpreters or bilingual deputies.<sup>x</sup> OLEO recommends (a) the use of qualified interpreters, including bilingual deputies of the Sheriff's Office, that are certified and have specialized training for interpretation in a criminal legal context, and (b) that in-person interpreters be prioritized over phone interpreters.<sup>xi</sup>

OLEO recommends that qualified in-person interpreters *shall* be used in case of an arrest. If an in-person interpreter has been contacted and is unavailable, members

should document as such and use a phone interpreter such as a language line. Qualified interpretation should be mandatory for notification of constitutional rights, interrogations, or taking of statements. Best practice is to translate and provide written copies of Miranda warnings for hearing-impaired or LEP individuals in their primary language to ensure accuracy.<sup>xii</sup> An interpreter should be on-hand in case the individual cannot read or has questions about their rights.

Additionally, OLEO recommends the inclusion of an additional interpretation advisement alongside Miranda warnings<sup>xiii</sup> such as the following language:

“If you are hearing-impaired or English is not your primary language, King County Sheriff’s Office has the obligation to offer you an interpreter without cost and will defer interviews pending the appearance of an interpreter.”

#### RECOMMENDATION 4.

##### **Expand prohibitions on who should not be an interpreter and extend to law enforcement activities with LEP individuals.**

GOM 16.04.025 currently directs deputies not to use friends or family members for sign language interpretation. For consistency, this same type of prohibition should extend to all forms of interpretation, not only sign language.

Additionally, OLEO recommends these prohibitions be expanded to exclude the use of friends, family members, volunteers, bystanders, or children for interpretation in any law enforcement activity unless there is a safety reason necessitating immediate communication. Any conversation using a non-qualified interpreter should be recorded on a body camera or audio recording device (if the third party or LEP individual declines the recording, the declination should be recorded). Any information gained by a non-qualified interpreter should be verified by a qualified interpreter as soon as practical. Additional reporting guidance should be implemented to document the nature of any exigency and the use of non-qualified interpreters.

#### RECOMMENDATION 5.

##### **Add policy and procedure for identifying an individual’s primary language.**

There is currently no protocol outlined to assist deputies in identifying an individual’s primary language. Several peer jurisdictions provide deputies with “I Speak” cards, which the County Office of Equity, Racial and Social Justice has already developed for the 36 most-commonly spoken languages in the County.<sup>xiv</sup> The Sheriff’s Office should collaborate with the County Language Access Program<sup>xv</sup> to adapt this resource for deputies’ use and outline procedures for identifying primary language in GOM 16.04.000.

## RECOMMENDATION 6.

**Add language on the use of alternative auxiliary aids and teletypewriters.**

As written, GOM 16.04.000 provides no guidance on the use of auxiliary aids.<sup>xvi</sup> Federal guidelines require that a disabled individual's request for alternative auxiliary aid be honored, unless another effective method of communication exists.<sup>xvii</sup>

OLEO recommends additional language be added to clarify that requests for alternative auxiliary aids should be honored. All such requests should be documented in the deputy's report. OLEO also recommends that if a member denies a hearing-impaired individual's request for an alternative auxiliary aid to communicate, the member should document and provide a justification for the denial in their report.

Additionally, to ensure equal access to services, policy should make clear that hearing-impaired individuals shall be provided access to a teletypewriter (TTY, also known as a telecommunication device for hearing-impaired people, or TDD) to make a phone call in any situation in which a non-hearing-impaired person would have access to a telephone. Members should also accept phone calls placed by persons who are hard of hearing through the Telecommunications Relay Service.<sup>xviii</sup>

## RECOMMENDATION 7.

**Institute additional reporting requirements to document hearing impairment or language barriers.**

While GOM 16.04.030 currently requires deputies to report the use of a sign language interpreter, OLEO recommends reporting requirements be expanded to include documentation of:

- the presence of hearing impairments or language barriers;
- requests for and the use or denial of auxiliary aids;
- the manner in which deputies identified the individual's primary language;
- the use of a phone interpreters such as through a language line;
- the use of qualified interpreters; and
- the use of any friends, family members, volunteers, bystanders, or children used as interpreters and their relation to the interviewee.

## RECOMMENDATION 8.

**Amend issuance of warnings prior to use of force to instruct deputies to consider the possibility of a hearing impairment or language barrier that may challenge comprehension or compliance.**

GOM 6.00.000 already instructs members to identify themselves, issue verbal warnings, and provide reasonable opportunity to comply before discharging a firearm or using

other force options. Following practice of peer agencies,<sup>xix</sup> OLEO recommends the inclusion of the following language:

“Members should be mindful that there may be a hearing impairment or language barrier impeding comprehension of commands. In these circumstances, members shall attempt to identify other means by which they can issue a warning if feasible.”

#### RECOMMENDATION 9.

#### **Require reporting of the presence of the listed characteristics and conditions and the impact on critical decision-making regarding use of force.**

The newly published GOM 6.00.000 on Use of Force requires deputies to consider several characteristics and conditions including language barriers before using force.<sup>xx</sup>

However, GOM 6.01.000 on Investigation/Reporting Use of Force and Serious Incidents does not stipulate when or how to document the presence of these characteristics and conditions. OLEO recommends instituting additional reporting requirements to document:

- the presence of any of the characteristics and conditions listed in the policy, most notably for this policy review, the presence of a language barrier;
- any warnings or commands given; and
- the comprehension of those commands.

<sup>i</sup> U.S. Department of Justice, “LEP Resource Guide for Law Enforcement,” n.d.,

[https://www.dhs.gov/sites/default/files/publications/lep-resouce-guide-law-enforcement\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/lep-resouce-guide-law-enforcement_0.pdf).

<sup>ii</sup> Bharathi S. Venkatraman, “Lost in Translation: Limited English Proficient Populations and the Police,” *Police Chief*, 73:4, 2006, International Association of Chiefs of Police, <https://www.policechiefmagazine.org/lost-in-translation-limited-english-proficient-populations-and-the-police/?ref=b34840803136937f3b3e631e13395e51>.

<sup>iii</sup> Susan Shah, Insha Rahman, and Anita Khashu, “Overcoming Language Barriers: Solutions for Law Enforcement,” Vera Institute for Justice and U.S. Department of Justice Community Oriented Policing Services, 2007, <https://www.vera.org/publications/overcoming-language-barriers-solutions-for-law-enforcement> and Susan Shah and Rodolfo Estrada, “Bridging the Language Divide: Promising Practices for Law Enforcement,” Vera Institute of Justice, 2009, <https://www.vera.org/publications/bridging-the-language-divide-promising-practices-for-law-enforcement>.

<sup>iv</sup> “Primary language” means the language in which an individual is most effectively able to communicate. (Definition source: San Francisco Police Department General Order 5.20.)

<sup>v</sup> See Recommendation 6 for discussion of alternative auxiliary aids.

<sup>vi</sup> For a full summary of applicable requirements, see King County Office of Equity and Social Justice Language and Communications Access Requirements, <https://kingcounty.gov/~media/elected/executive/equity-social-justice/Immigrant-and-Refugee/LanguageAccessOrd/Language-Access-Requirements.ashx?la=en>.

<sup>vii</sup> See, for example, Seattle Police Department Manual 15.250.F.3. – Interpreters and Translators, <https://www.seattle.gov/police-manual/title-15---primary-investigation/15250---interpreters-and-translators>.

<sup>viii</sup> See Recommendation 3 for discussion of qualified in-person interpreters.

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<sup>ix</sup> See RCW 2.42.120.

<sup>x</sup> The only section of GOM 16.04.00 on Using Interpreters applicable to LEP individuals is 16.04.035 outlining protocol to use the AT&T Language Line.

<sup>xi</sup> See, for example, San Francisco Police Department General Order 5.20 Sect. III (D), Language Access Services for Limited English Proficient (LEP) Persons, Order of Preference <https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO5.20%20Language%20Access%20Services%20for%20Limited%20English%20Proficient%20%28LEP%29%20Persons.pdf>.

<sup>xii</sup> Manuel Triano- López, “The pre-trial stages of arrest and police questioning: Implications for interpreters and translators in the United States”.

<sup>xiii</sup> See, for example, Seattle Police Department Manual 6.150 – Advising Persons of Right to Counsel and Miranda (9) “Officers Shall Include Additional Warning for the Hearing-Impaired”, <https://www.seattle.gov/police-manual/title-6---arrests-search-and-seizure/6150---advising-persons-of-right-to-counsel-and-miranda>.

<sup>xiv</sup> See King County “I Speak” Cards, [https://kingcounty.gov/~media/elected/executive/equity-social-justice/Immigrant-and-Refugee/LanguageAccessOrd/I\\_Speak\\_Cards\\_FINAL.ashx?la=en](https://kingcounty.gov/~media/elected/executive/equity-social-justice/Immigrant-and-Refugee/LanguageAccessOrd/I_Speak_Cards_FINAL.ashx?la=en).

<sup>xv</sup> See King County Language Access Program, <https://kingcounty.gov/audience/employees/translation-interpretation.aspx>.

<sup>xvi</sup> Auxiliary aids are tools used to communicate with people who have a disability or impairment. This could include, but is not limited to, the use of gestures or visual aids; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter. (Definition source: Spokane Police Department Policy Manual 370.)

<sup>xvii</sup> U.S. Department of Justice, Disability Rights Section, “Commonly Asked Questions about the Americans with Disabilities Act and Law Enforcement,” 2020, [https://archive.ada.gov/q&a\\_law.htm](https://archive.ada.gov/q&a_law.htm).

<sup>xviii</sup> See, for example, Portland Police Bureau Directives Manual 06.40.36 Communication with Hearing Impaired and Limited English Proficient Persons, <https://www.portlandoregon.gov/police/article/533213>.

<sup>xix</sup> See for example Portland Police Bureau Directives Manual, 1010.00 Use of Force 5.1.1 <https://www.portland.gov/policies/police-directives/weapons-ammunition-equipment-1000/101000-use-force>.

<sup>xx</sup> These characteristics and conditions include: medical condition; pregnancy; age; signs of mental, behavioral, or physical impairments or disabilities; perceptual or cognitive impairments related to drug or alcohol use; suicidal ideations; language barrier; or the presence of children.