

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BI WEN LIU, XUE XIU LIU, XIU JU ZHUANG, :
CHUN JIN DONG, YU ZHU LIU, LI HUA LIU, :
JIN YU ZHENG, YONG QIANG LIU, LING LIN, :
BAO GUAN SHAO, GUANG ZHONG LI, NICK :
(REN XING) ZHANG, XIN WU CHEN, JING :
TUAN LIU, DAO CHAI WU, JING CHUN :
ZHENG, XIN HAO OU, YI CHI WENG, JUN :
GUANG CHEN, JIN EU CHEN, YONG HE :
DONG, YONG FEI LIU, AND YAN YING LIU, :

Plaintiffs, :

CIVIL ACTION

v. :

NO. 18-CV-4900 (MMB)

THE CITY OF PHILADELPHIA, :

Defendant. :

~~[PROPOSED]~~ SETTLEMENT AGREEMENT AND ORDER

THIS SETTLEMENT AGREEMENT AND ORDER is entered into on October 4, 2019 (the “**Effective Date**”) between Plaintiffs, Bi Wen Liu, Xue Xiu Liu, Xiu Ju Zhuang, Chun Jin Dong, Yu Zhu Liu, Li Hua Liu, Jin Yu Zheng, Yong Qian Liu, Ling Lin, Bao Guan Shao, Guang Zhong Li, Nick (Ren Xing) Zhang, Xin Wu Chen, Jing Tuan Liu, Dao Chai Wu, Jing Chun Zheng, Xin Hao Ou, Yi Chi Weng, Jun Guang Chen, Jinen Chen, Yong He Dong, Yong Fei Liu, and Lan Ying Liu¹ (“**Plaintiffs**”), and the City of Philadelphia (“**City**”). Plaintiffs and the City of Philadelphia are collectively referred to as the “**Parties**” and may each individually be referred to as a “**Party**.”

WHEREAS, on November 13, 2018, Plaintiffs filed a civil lawsuit against the City in the U.S. District Court for the Eastern District of Pennsylvania (the “**Court**”), captioned *Bi Wen Liu, et al. v. The City of Philadelphia*, No. 2:18-cv-04900-MMB (the “**Lawsuit**”);

WHEREAS, the Lawsuit asserts claims against the City based upon allegations of violations of the United States Constitution due to the passage and enforcement of Section 9-627 of The Philadelphia Code and Home Rule Charter, as enacted on January 25, 2005 and amended December 18, 2007 (the “**Current Ordinance**”);

¹ The caption of Plaintiffs’ complaint incorrectly listed the names of Yong Qian Liu (misspelled as “Yong Qiang Liu”); Jinen Chen (misspelled as “Jin Eu Chen”); and, Lan Ying Liu (misspelled as “Yan Ying Liu”). This Settlement Agreement and Order is intended to encompass these actual individuals in addition to those listed in the caption.

WHEREAS, the Parties agree that acceptance of this Settlement Agreement and Order (“**Agreement**”) and payment of the Settlement Amount (as hereafter defined) is not to be construed in any court whatsoever, or otherwise, as an admission of liability, fault, violation of statutory law, constitutional law, or other obligation, or any other wrongdoing or responsibility on the part of the City;

WHEREAS, the Parties agree that acceptance of this Agreement and payment of the Settlement Amount is not to be construed in any court whatsoever, or otherwise, as a waiver of any affirmative defenses, including the statute of limitations;

WHEREAS, for the purpose of avoiding costly and time-consuming litigation, the City and the Plaintiffs have agreed to settle, resolve and end the Lawsuit fully and finally subject to the terms hereof;

WHEREAS, the City denies all allegations and this Agreement is entered into solely for the purposes of avoiding the burdens of protracted further proceedings;

NOW, THEREFORE, in consideration of the promises and covenants contained herein, in reliance upon any representations set forth herein, and intending to be legally bound, each of the Plaintiffs and the City agree to settle and resolve the Lawsuit in accordance with the following terms and conditions, effective upon entry of this Agreement:

I. FORBEARANCE AND RELEASE BY CITY

1. The City, including without limitation the Philadelphia Police Department (“PPD”) and the Department of Licenses and Inspections, shall continue the existing City practice of not enforcing or seeking to enforce (“**Enforcement**”) against any person the Current Ordinance. With respect to the Current Ordinance, “**Enforcement**” includes after the date hereof: (i) the issuance of a New Code Violation Notice (“**CVN**”), as defined below; (ii) the institution of a code enforcement complaint for the imposition of fines based on a New CVN; or (iii) the actual collection of any fine based on a New CVN. A “**New CVN**” is any CVN issued under the Current Ordinance after entry of this Agreement.

2. The City forever releases, relinquishes, rescinds, satisfies and vacates any pending, outstanding or final CVNs, orders, judgments, debts, liens or claims of the City of any nature now existing as to any Plaintiff resulting from the enforcement of the Current Ordinance.

3. Nothing in this Agreement shall be construed as a prohibition upon the Philadelphia City Council’s ability to pass an ordinance that amends, repeals, or replaces the Current Ordinance (“**Future Ordinance**”).

II. REMEDIAL RELIEF

4. Within forty-five (45) days of the entry of this Agreement, the City shall remit payment of Two Hundred Sixty-Five Thousand Dollars (\$265,000.00) (the “**Settlement Amount**”). The Settlement Amount shall be delivered to Pepper Hamilton LLP for the benefit of the Plaintiffs at the address provided in Paragraph 11 hereof and paid by check in immediately available funds to the order of Pepper Hamilton LLP. Within ten (10) days thereafter, Plaintiffs shall file a notice of dismissal of the Lawsuit.

5. Each Plaintiff agrees that Pepper Hamilton LLP has authority to receive the Settlement Amount on their behalf in settlement of their claims as provided in Paragraph 6 hereof.

III. RELEASE BY PLAINTIFFS

6. For and in consideration of payment of the Settlement Amount and the obligations of the City provided herein, Plaintiffs, their heirs, executors, administrators, assigns, or successors in interest, and any and all business entities now owned by any Plaintiffs issued CVNs under the Current Ordinance, and each of them, do hereby remise, release and forever discharge the City, its agents, servants, workers or employees, of all actual and/or potential liability directly or indirectly arising from the claims in the Lawsuit, specifically including (i) any liability for injuries and/or damages sustained through the City's enforcement of or attempts to enforce the Current Ordinance through the date of the entry of this Agreement, and (ii) any and all liability for attorneys' fees and costs, inclusive of any attorney's fees potentially recoverable under 42 U.S. Code § 1988(b), in connection with the Lawsuit or the claims asserted therein; provided however, that this release of liability by Plaintiffs shall not include any claims or liability arising from the City's breach or non-compliance with any of the terms of this Agreement.

IV. TRAINING

7. Beginning within ninety (90) days of the entry hereof and at least semi-annually during the Training Term (hereafter defined), the PPD shall provide training to all PPD law enforcement officers reinforcing the City's practice that PPD law enforcement officers are not to issue any CVNs pursuant to the Current Ordinance or to otherwise enforce the Current Ordinance; provided that this obligation shall terminate in the event of and upon enactment of a Future Ordinance. "Training Term" means the period commencing on the entry of this Agreement and ending eighteen (18) months thereafter, unless otherwise modified under the provisions of this Agreement (see Article V. Compliance and Article VI. Enforcement and Jurisdiction).

8. Consistent with its efforts in developing the Implicit Bias and Anti-Discrimination program and to promote fair and impartial policing, beginning within ninety (90) days of the entry of this Agreement and at least annually during the Training Term, the PPD shall provide training to all PPD law enforcement officers that reinforces PPD Directives 1.0 §5(C) and 8.11 §1(A). A copy of PPD Directives 1.0 and 8.11 are attached as Exhibits A and B, respectively. After 2019 and during the balance of the Training Term, this obligation shall be contingent on the PPD receiving funding for such training.

9. Consistent with its efforts to facilitate effective, accurate and mutually beneficial communication between the PPD and limited English proficient community members, beginning within ninety (90) days of the entry of this Agreement and at least annually during the Training Term the PPD shall provide training to its police officers that reinforces PPD Directive 7.7, and as further elaborated on in Exhibit C. A copy of PPD Directive 7.7 is attached as Exhibit D.

10. Beginning within ninety (90) days of the entry of this Agreement and at least annually during the Training Term, the PPD shall provide training to its police communication supervisors, call-takers, dispatchers, and interpreters that reinforces Directive 7.7, with particular emphasis on the Procedures for Accessing Interpretation Services in the context of Civilian Emergency Calls to 9-1-1 (Directive 7.7 § 4(A)) and the corresponding Decision Tree for

Interpreters for 911 Calls (PPD Directive 7.7 §10, Diagram #2), as further elaborated on in Exhibit C. See also Exhibit D.

V. COMPLIANCE

11. “Compliance Term” means the period commencing on the entry of this Agreement and ending twelve (12) months thereafter, unless otherwise modified under the provisions this Agreement (see Article IV. Training and Article VI. Enforcement and Jurisdiction). In the event that the Philadelphia City Council passes any Future Ordinance prior to the end of the Compliance Term, the City shall notify Plaintiffs (through counsel, if any) in writing at the address below (or such other addresses as may be provided in the docket of the Lawsuit or noticed to the City in writing) within thirty (30) days of the Future Ordinance’s passage:

Pepper Hamilton LLP
3000 Two Logan Square
Philadelphia, PA 19103
Attn: Jeremy D. Frey

Asian American Legal Defense and Education Fund
99 Hudson Street, 12th Floor
New York, NY 10013
Attn: Jerry G. Vattamala, Esq.

12. Until the end of the Compliance Term as defined in Paragraph 11, and within a reasonable time of a written request of a Plaintiff (through counsel, if any) to the Law Department, the City shall provide such Plaintiff(s) (through counsel, if any) with any New CVNs issued under the Current Ordinance after the date this Agreement is entered at the address(es) as provided in Paragraph 11.

13. On or before February 1, 2020 and on or before April 30, 2021, the City shall provide Plaintiffs with written certifications of compliance with Article IV of this Agreement.

14. The City shall bear the costs of its performance of all its obligations hereunder.

15. Plaintiffs expect that the City will in good faith perform all its obligations hereunder and in a timely fashion. In the event that a Plaintiff determines that the City has breached any provision of this Agreement, prior to filing any motion, Plaintiff (through counsel, if any) shall provide the City with notice in writing at the address below (or such other addresses that may be provided to Plaintiffs in accordance with Paragraph 11):

City of Philadelphia Law Department
1515 Arch Street, 17th Floor
Philadelphia, PA 19102
Attn: Diana P. Cortes, Esq.

16. Upon receipt of notice in accordance with Paragraph 15, the City shall have thirty (30) days to cure any such breach. To the extent the breach is premised upon issuance of a New CVN pursuant to the Current Ordinance, the City will be deemed to have cured the breach

upon mailing of written notice to the person/entity that received the New CVN (and a copy to whomever provided notice to the City in accordance with Paragraph 15):

This notice is in reference to the Code Violation Notice ("CVN") you were issued on _____, Number _____. The City will not take any enforcement action against you as to this CVN.

You do not owe any money to the City on account of this CVN. You should not pay any money to the City on account of this CVN. If you have already paid this CVN, you should immediately contact _____ at 215-_____. Please keep this notice for your records.

VI. ENFORCEMENT AND RETENTION OF JURISDICTION

17. This Agreement shall remain in effect during the terms as provided herein or if the Court, upon motion of a Party, determines that the provisions are no longer necessary, whichever is sooner. However, the provisions of Paragraphs 1, 2, and 6 of this Agreement shall not expire.

18. For enforcing compliance herewith, the Court shall retain jurisdiction of this matter (i) during the Training Term (eighteen (18) months) for purposes of Article IV Training and Paragraph 13; and, (ii) for the Compliance Term (twelve (12) months) for purposes of the remainder of this Agreement. Any claimed breach or non-compliance of a party during the respective terms shall be noticed by motion of a party or initiated by the Court sua sponte. In the event of a breach of this Agreement, the Court may, in its discretion, extend the respective term.

VII. ADDITIONAL TERMS

19. This Agreement is the entire and final expression of the agreement by and between the Parties with respect to the matters referenced herein, and supersedes all prior understandings, negotiations and discussions of any nature, whether oral or written. This Agreement may be modified or amended only by an agreement in writing signed by Plaintiffs and the City or as otherwise ordered by the Court. No oral modifications or amendments shall be valid or enforceable. The Parties do not intend and explicitly deny any intention to create any rights enforceable by any persons not Parties hereto.

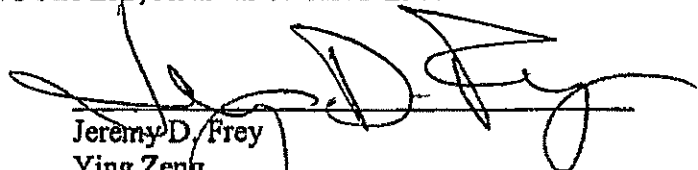
20. The Parties may execute this Agreement in one or more counterparts. Each counterpart shall constitute and have the full effect of an original, and all of which shall constitute a single instrument or writing. A facsimile or electronic copy or image bearing a signature of a duly authorized person for any party shall have the same validity and effect as a signature page bearing the original handwritten signature of any such person.

21. By signing below each of the undersigned certifies that they have the authority to bind the Plaintiffs and Defendant, respectively to this Agreement.

In Witness Whereof, the Parties have executed this Agreement as indicated below, to be effective after execution by the Court and on the date of its entry on the docket of the Lawsuit.

For Plaintiffs BI WEN LIU, XUE XIU LIU, XIU JU ZHUANG, CHUN JIN DONG, YU ZHU LIU, LI HUA LIU, JIN YU ZHENG, YONG QIAN LIU, LING LIN, BAO GUAN SHAO, GUANG ZHONG LI, NICK (REN XING) ZHANG, XIN WU CHEN, JING TUAN LIU, DAO

CHAI WU, JING CHUN ZHENG, XIN HAO OU, YI CHI WENG, JUN GUANG CHEN,
JINEN CHEN, YONG HE DONG, YONG FEI LIU, AND LAN YING LIU:

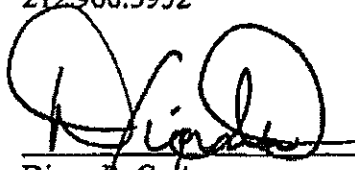


Jeremy D. Frey
Ying Zeng
PEPPER HAMILTON LLP
3000 Two Logan Square
Eighteenth & Arch Streets
Philadelphia, PA 19103-2799
215.981.4000



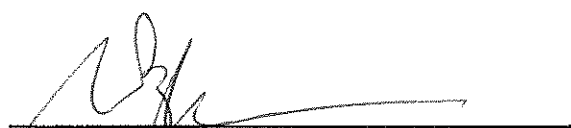
Jerry G. Vattas
Patricia Yan
Asian American Legal Defense and Education
Fund
99 Hudson Street, 12th Floor
New York, NY 10013-2815
212.966.5932

For Defendant CITY OF PHILADELPHIA:



Diana P. Cortes
City of Philadelphia Law Department
1515 Arch Street, 17th Floor
Philadelphia, PA 19102
215.683.5038

SO ORDERED, this 31 day of October, 2019.



MICHAEL M. BAYLSON
United States District Court Judge
Eastern District of Pennsylvania

EXHIBIT A



PHILADELPHIA POLICE DEPARTMENT

PREFIX 1.0

Issued Date: 08-20-15	Effective Date: 08-20-15	Updated Date:
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**SUBJECT: MISSION, VALUES, ETHICS, AND CODE OF CONDUCT
PLEAC 1.1.1, 1.4.3**

1. PURPOSE

- A. To set forth the Mission, Values Statement, Code of Ethics, and Code of Conduct for members of the Philadelphia Police Department.
- B. This Department is steeped in the highest traditions of policing in a city which saw the birth of the principles of liberty and the very Constitution we are each sworn to uphold. The oath we take is a solemn one, to which each of us must remain loyal.

2. MISSION STATEMENT

- A. The mission of the Philadelphia Police Department is to demonstrate excellence in policing by working in partnership with the community and others to:
 - 1. Fight and prevent crime, the fear of crime, and terrorism;
 - 2. Enforce laws while safeguarding the constitutional rights of all people;
 - 3. Provide quality service to all of our residents and visitors; and
 - 4. Create a work environment in which we recruit, train, and develop an exceptional team of employees.
- B. All members of the Philadelphia Police Department must dedicate themselves to accomplishing this mission. Whether sworn or civilian, patrol, specialized units, or administrative offices, every unit is essential in making the Philadelphia Police Department a model of excellence in policing. This requires that we hold each other and ourselves accountable for advancing our mission and performing our work with the highest level of integrity and professionalism. We must live our core values in our every day actions, and base our decisions on our guiding principles. (PLEAC 1.4.3 a)

3. CORE VALUES [PLEAC 1.4.3a]

- A. Our core values form the framework for all of our work. These values are a part of the finest traditions of the Department and make up who we are. The core values on which we stand, and that are emblazoned on the uniform of every officer of the Philadelphia Police Department are:

PREFIX 1.0 - 1

1. Honor.

It is a privilege to serve as a member of the law enforcement community and especially as a member of the Philadelphia Police Department. Each day when you pin on your badge, remember those who went before you and the sacrifices made in the name of this badge. Treat your badge with honor, respect, and pride. Do nothing that will tarnish your badge, for one day you will pass it to another Philadelphia Police officer to honor and respect.

2. Integrity

Integrity is the bedrock of policing and the foundation for building a successful relationship with our partners. Integrity means reflecting our values through our actions. It is not enough to espouse honor, service, and integrity. Each of us must live these values in our professional and personal lives. We do this by being honest in our dealings and abiding by the laws and respecting the civil rights of all. Serving with integrity builds trust between the community and the police.

3. Service

Service with honor means providing police service respectfully and recognizing the dignity of every person. We can demand that others respect and honor our work only when we respect them and their rights. We are in the business of providing police service with the highest degree of professionalism. Every day we come into contact with crime victims, residents afraid to enjoy their neighborhoods, and young people scared to stand up and do the right thing. Our job is to help them and to do so with courtesy and compassion.

4. OATH OF OFFICE

- A. It is the policy of the Philadelphia Police Department that all newly-appointed law enforcement personnel will pledge the "Oath of Office" in a manner prescribed by the Philadelphia Police Department. This oath is the first affirmation that one has devoted him/herself to a higher duty in line with the mission and values of the department. (PLEAC 1.1.1)
- B. The "Oath of Office" will contain a language consistent with that required by Article VI, section 3 of the Constitution of the Commonwealth of Pennsylvania. (PLEAC 1.1.1)
- C. Newly-appointed personnel will similarly pledge that they will uphold, obey, and enforce the law without consideration to a person's race, color, sex, religious creed, sexual orientation, age, national origin, ancestry, handicap, or disability. (PLEAC 1.1.1)

PREFIX 1.0 - 2

- D. The "Oath of Office" will be "I, [name], solemnly swear that I will support, obey, and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania, Home Rule Charter of Philadelphia, and ordinances of the City of Philadelphia; and abide by all the rules and regulations of the Philadelphia Police Department without consideration to a person's race, color, sex, gender identity, religious creed, sexual orientation, age, national origin, ancestry, handicap or disability; and that I will discharge the duties of my office with fidelity."
-

5. CODE OF ETHICS

- A. Ethics is defined as a code, system, or body of moral principles or good conduct, particularly a system for a group of people or a profession, such as law or medicine. Ethics deals primarily with values: what is good, what is bad, what is right, and what is wrong. The responsibility to act ethically rests with every sworn law enforcement officer when he/she goes about his/her professional duties and in his/her personal life.
- B. The Philadelphia Police Department derives its authority from the Commonwealth of Pennsylvania Constitution and the Home Rule Charter of Philadelphia. With this authority, sworn law enforcement officers investigate other people, abridge normal liberties, and use force when necessary. (PLEAC 1.2.1) Therefore, it is imperative that sworn law enforcement officers of this department perform to the highest degree of ethical behavior when serving the communities and citizens who live, work, and visit Philadelphia.
- C. The policy of the Philadelphia Police Department is that its sworn law enforcement officers shall maintain the highest standard of conduct and perform their duties in a nondiscriminatory, efficient, courteous, respectful, and ethical manner at all times. Further, these official powers shall not be used for personal profit or gain, or violate the Constitution or laws in the performance of their work.
- D. Sworn law enforcement officers shall abide by the following Philadelphia Police Department Code of Ethics:

"As a Police Officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all persons to liberty, equality, and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

PREFIX 1.0 - 3

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminal, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession.”

6. PROCEDURAL GUIDELINES

- A. Specific violations of Department policy or procedures shall be handled in accordance with this Directive and Directive 8.6 entitled, “Disciplinary Procedure.”
- B. Commanding Officers/Department Heads shall ensure that all members of their command:
 - 1. Familiarize themselves with the contents of this Directive prefix through Roll Call training and Staff meetings; and
 - 2. Subscribe to the contents of this directive prefix.
- C. The Chief Inspector, Training and Education Services shall ensure that:
 - 1. Recruits are familiar with the content of this directive prefix prior to graduation from the Police Academy; and
 - 2. The annual in-service training program shall include the contents of this directive prefix in the core curriculum.

BY COMMAND OF THE POLICE COMMISSIONER

PREFIX 1.0 - 4

EXHIBIT B



PHILADELPHIA POLICE DEPARTMENT

DIRECTIVE 8.11

Issued Date: 02-28-11	Effective Date: 02-28-11	Updated Date: 06-10-14
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SUBJECT: RACE, ETHNICITY, AND POLICING
PLEAC 1.8.3

1. PURPOSE

- A. This policy is intended to reaffirm the Philadelphia Police Department's commitment to unbiased policing, to clarify the circumstances in which officers can consider race/ethnicity when making law enforcement decisions, and to reinforce procedures that serve to assure the public that we are providing services and enforcing laws in an equitable manner.
-

2. DEFINITIONS

- A. **Reasonable Suspicion:** The standard of proof necessary for a police officer to engage in a temporary investigatory detention of an individual. While reasonable suspicion is a lesser standard of proof than probable cause, it must be supported by specific and articulable facts for suspecting a person of criminal activity. Each individual fact or observation alone may be as consistent with lawful conduct as it is with criminal activity. However, the combination of several different facts and observations would lead to a reasonable belief that illegal activity is taking place.
- B. **Investigatory Detention:** A temporary detention of an individual by a police officer. An investigatory detention requires reasonable suspicion of criminal activity and subjects the individual to a limited period of detainment.
- C. **Frisk:** A pat-down of outer clothing for weapons only. A police officer who stops an individual for an investigatory detention, and establishes a reasonable fear for his or her safety, may frisk the individual for weapons only. While no probable cause is required, reasonable fear must be supported by specific and articulable facts.
- D. **Probable Cause:** Facts and circumstances which would support a reasonable belief that a crime has been committed and that the person to be arrested committed the crime. Probable cause involves an examination of all the facts and circumstances known to the officer at the time of an event.

DIRECTIVE 8.11 - 1

- E. **Search:** A valid custodial arrest authorizes a complete search of the arrested person and the area within his immediate control. Immediate control includes what the arrestee is carrying and where he may logically reach for a weapon or contraband. Searches incident to arrest are conducted to ensure the safety of the officer and the arrestee, as well as to prevent the destruction or discarding of evidence.
-

3. POLICY

A. Policing Impartially

1. Investigative detentions, traffic stops, arrests, searches, frisks and property seizures by officers shall be based upon a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U. S. Constitution and Article I, Section 8 of the Pennsylvania Constitution. Officers must articulate the specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, frisks, arrests, nonconsensual searches, and property seizures.
2. Except as provided below in Section B, officers shall not consider the race and/or ethnicity of the suspect or person to be stopped in determining whether there is reasonable suspicion or probable cause sufficient to justify the investigation. The same restrictions apply to all consensual encounters and to all requests for consent to search.
3. Except as provided below, race/ethnicity shall not be a factor in any law enforcement investigation or provision of law enforcement services or any law enforcement decisions including stops, frisks, searches, consensual encounters and consent searches.
4. An officer may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). However, race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion.

B. Preventing Perceptions of Biased Policing

1. In an effort to prevent inappropriate perceptions of biased law enforcement, each officer shall do the following steps when conducting pedestrian and vehicle stops:
 - a. Always be courteous and professional
(Remember: Treat all people as you would want your family treated)

DIRECTIVE 8.11 - 2

- b. State the reason for the stop as soon as practical, unless providing this information will compromise the officer or public safety.
- c. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the citizen understands the purpose of any reasonable delay.
- d. Provide your name and badge number when requested.

C. Supervision and Accountability

- 1. All supervisors regardless of rank shall ensure that all personnel in their command are familiar with the content of this policy and are operating in compliance with it.
- 2. Any violations of this policy, as determined after an investigation, will be addressed through the same procedures outlined in Directive 8.6, "Disciplinary Procedure." (PLEAC 1.8.3c)
- 3. The Office of Standards and Accountability will be responsible to conduct an annual review of the departmental compliance to this directive, and department data related to this directive. This process will also include a review of citizen concerns or complaints that have been received in the previous year. A report indicating the findings will be forwarded to the Police Commissioner yearly. (PLEAC 1.8.3d)

RELATED PROCEDURES Directive 8.6, Disciplinary Procedure

BY COMMAND OF THE POLICE COMMISSIONER

<u>FOOTNOTE</u>	<u>GENERAL#</u>	<u>DATE SENT</u>	<u>REMARKS</u>
*1	7790	06-10-14	Addition

DIRECTIVE 8.11 - 3

EXHIBIT C

For fiscal year 2019-2020, the City's training will be conducted via roll call reminder on at least a quarterly basis. The following fiscal year 2020-2021, the City will include the training in its annual Municipal Police Office Training and Educations Commission mandatory training ("MPO Training"), which is conducted throughout the year. As part of the MPO Training, officers will receive a summary of the Directives in pamphlet form, and the materials will be addressed during lectures on local issues.

EXHIBIT D



PHILADELPHIA POLICE DEPARTMENT

DIRECTIVE 7.7

Issued Date: 12-09-05	Effective Date:12-09-05	Updated Date: 01-16-14
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SUBJECT: LIMITED ENGLISH LANGUAGE PROFICIENTCY (LEP)

INDEX

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE NUMBER</u>
1	Purpose	1
2	Policy	1
3	Definitions	2
4	Procedures for Accessing Interpretation Services	2
5	Interrogation, Interviews and Complaints	5
6	Procedures for Accessing Document Translation Services	6
7	Notifying the Public about Departmental Language Services	7
8	Training – Language Assistance Policy and Interpreter Skills	8
9	Monitoring and Updating Language Assistance Efforts	9
10	Decision Trees	10

Appendix “A” Translated Police Reports



PHILADELPHIA POLICE DEPARTMENT

DIRECTIVE 7.7

Issued Date: 12-09-05	Effective Date: 12-09-05	Updated Date: 01-16-14
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SUBJECT: LIMITED ENGLISH LANGUAGE PROFICIENCY (LEP)

1. PURPOSE

- A. The purpose of this Directive is to establish effective guidelines, consistent with Title VI of the Civil rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act, and the Mayor's Executive Order of September 29, 2001, for departmental personnel to follow when providing services to, or interacting with, individuals who have limited English proficiency (LEP).
- B. The Philadelphia Police Department recognizes the importance of effective and accurate communication between its employees and the community they serve. Language barriers can impede effective and accurate communication in a variety of ways. Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from accessing and/or understanding important rights, obligations, and services, or from communicating accurately and effectively in difficult situations. Hampered communication with LEP victims, witnesses, alleged perpetrators, and community members can present the Police Department with safety, evidentiary, and ethical challenges. Ensuring maximum communication ability between law enforcement and all segments of the community serves the interest of both.
-

2. POLICY

- A. It is the policy of this Department to take reasonable steps to provide timely meaningful access for LEP persons to the services and benefits that the Department provides to all departmentally conducted programs or activities. All police personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services.
- B. All police personnel will inform members of the public that language assistance services are available free of charge to LEP persons and that the Department will provide these services to them.

DIRECTIVE 7.7 - 1

3. DEFINITIONS

- A. **Primary Language:** Means an individual's native tongue or the language in which an individual most effectively communicates. Police personnel should avoid assumptions about an individual's primary language.

EXAMPLE: Not all individuals from Central America speak Spanish fluently. Instead, some Central Americans may claim an indigenous language as their native tongue. Police personnel should make every effort to ascertain an individual's primary language to ensure effective communication.

- B. **Limited English Proficiency (LEP):** Designates individuals whose primary language is not English and who have a limited ability to read, write, speak, or understand English. LEP individuals may be competent in certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific: an individual may possess sufficient English language skills to function in one setting, but may find these skills are insufficient in other situations.
- C. **Interpretation:** Is the act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
- D. **Translation:** Is the replacement of written text from one language (source language) into an equivalent written text (target language).
- E. **Bilingual:** Is the ability to use two (2) languages fluently.
- F. **Police Department Authorized Interpreter (PPDAI):** Bilingual police personnel who have been authorized to interpret for others in certain situations.
- G. **PPDAI List:** An accounting of police personnel who are bilingual and are authorized to act as volunteer interpreters. The list will be created and maintained by the Training Bureau and provided to the Communications Bureau.

4. PROCEDURES FOR ACCESSING INTERPRETATION SERVICES:

- A. **Civilian Emergency Calls to 9-1-1**
1. When a 9-1-1 call is received by Police Radio Room personnel and it is determined that the caller is LEP, the call taker shall inform the LEP caller that he or she will be immediately transferred to an interpreter. If the language is known, the call taker shall immediately survey the Radio Room for an available and appropriate

DIRECTIVE 7.7 - 2

PPDAI to respond. If a PPDAI is available, the original call taker will immediately transfer the LEP caller to the PPDAI. The PPDAI shall follow the standard operating procedures for all 9-1-1 calls.

2. If no available and appropriate PPDAIs are present, the call taker will contact the contracted telephonic interpretation service directly via speed-dial. Once a three-way call is established between the call taker, the LEP caller, and the interpreter, the call taker shall follow the standard operating procedures used for all 9-1-1 calls.
3. Radio Room personnel will note in the information sent to dispatch that the 9-1-1 caller is an LEP individual and indicate the language, so that this information is provided to responding police personnel. The Dispatcher will make every effort to dispatch a bilingual officer to the assignment, if available.

B. Police Personnel Requesting Interpretation Services

1. Responding Police Personnel Responsibilities:

- a. Police personnel in the field in need of interpretation services will attempt to identify the LEP individual's primary language through the use of the language identification card and immediately contact the Operations Desk of Police Radio at 686-xxxx, xxxx or xxxx.

2. Exigent Circumstances:

- a. Police personnel are expected to follow the general procedures outlined in this directive; however exigent circumstances may require some deviations. In such situations, personnel are to use the most reliable, temporary interpreter available, such as bilingual Police Personnel. Examples may include the need to obtain descriptive information on a fleeing suspect, or identifying information of an injured person however, once an exigency has passed, all personnel are expected to revert to the general procedures in this directive.

3. Family, Friends and Bystanders:

- a. In other than exigent circumstances, Police personnel should only use family, friends or bystanders for interpreting in very informal, non-confrontational contexts, and only to obtain basic information at the request of the LEP person. Using family, friends, or bystanders to interpret could result in a breach of confidentiality, a conflict of interest, or an inadequate interpretation. Barring exigent circumstances, police personnel should not use minor children to provide interpreter services.

DIRECTIVE 7.7 - 3

4. Police Radio Responsibilities:

- a. The Operations Desk personnel will consult the PPDAl List to determine if a PPDAl is available to respond to the assignment. If no PPDAl is available to respond, the Operations Desk personnel will immediately determine if a PPDAl is available in the radio room to assist. If no PPDAl is available, the Operations Desk personnel will contact the telephonic interpretation service provider.

C. Contracted In-Person Interpretation Services

1. Contracted in-person interpretation services shall be available to all police personnel when interacting with LEP individuals. Police Radio will be the central conduit for connecting personnel in the field to the appropriate interpreter. While this service is available to all police personnel, it is best suited for investigative units operating under non-emergency situations, such as witness interviews and criminal interrogations.
2. Police personnel who believe they need this service will consult with the highest-ranking supervisor on location. If the supervisor concurs, the supervisor will contact the Radio Room Operations Desk Supervisor at 686-xxxx, 686-xxxx, or 686-xxxx. The calling supervisor will provide the Radio Room Supervisor with the investigative officer's name, badge number, phone number, and exact location where the interpreter is expected (*i.e. numerical address with room or floor numbers - not just "homicide" or "east division"*). The use of this service will be noted on the district/unit's Daily Complaint Summary (75-67).
3. The Radio Room Supervisor will contact the contracted in-person interpreter service, relay all information, and will provide the assigned access codes. The supervisor will obtain an estimated time of arrival (ETA) for the interpreter before ending the call and will notify the officer/investigator with this information. The contracted in-person interpreter should be on location no more than two (2) hours from the time of the service's notification. The use of this service will be noted on Radio's Daily Complaint Summary (75-67).
4. Upon the arrival of the contracted interpreter, the officer/investigator will examine the interpreter's employee identification. The officer/investigator shall record the interpreter's name and company affiliation on the investigative report along with the interpreter's arrival and departure times. Once the interpreter is prepared, police personnel will ask all questions through the interpreter.

NOTE: It is police personnel's responsibility to develop and ask any questions. Under no circumstances will an interpreter independently question a LEP individual. The interpreter's role is to serve as a neutral third party, taking care not to insert his or her perspective into the communication between the parties.

DIRECTIVE 7.7 - 4

5. Conflict of Interest/Bias of Interpreter:

- a. If the officer/investigator believes that there is any conflict of interest with the assigned interpreter, bias or any other reason why the interpreter should be excused, the highest ranking supervisor on location shall be consulted. If that supervisor agrees that the concern is warranted, the interpretation service will be notified for another interpreter.
- b. Any time that there may be a conflict of interest or bias on the part of the interpreter the supervisor consulted with, will forward a memorandum to the departmental LEP Coordinator identified in Section 9 and will make note on the district/unit's Daily Complaint Summary (75-67).

5. INTERROGATION, INTERVIEWS AND COMPLAINTS

A. Criminal Interrogations

- 1. A failure to protect the rights of LEP individuals during interrogations risks the integrity of any investigation. Police personnel must recognize that miscommunication during interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. A qualified interpreter shall be used for all interrogations according to the procedures set forth in Directive 5.23, "Interviews and Interrogations".
*5
- 2. **Because of the dual role a PPDAI may have when conducting interrogations and acting as an interpreter, PPDAIs are not to be used as interpreters during interrogations.** Hence, the contracted in-person interpretation service shall be utilized, as outlined in Section 4-C.
*5
- NOTE:** If an interrogator is available to communicate with the suspect(s) in their primary language (i.e. English, Spanish, etc.) an in person interpreter is not required.
- 3. Miranda Warnings, and all other vital written materials, will be available to the suspect or witness in his or her primary language. In the case of a language into which forms have not been translated and in the case of illiteracy, forms will be read to the suspect or witness in his or her primary language using the contracted interpretation services.
- 4. According to Pennsylvania law, "upon the arrest of any person who is deaf and prior to interrogation, the arresting officer shall make available to the person who is deaf an interpreter who shall be present with the person who is deaf throughout the interrogation." A sign language interpreter can be requested by notifying Police Radio at 215-xxx-xxxx.
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DIRECTIVE 7.7 - 5

B. Crime Witness Interviews

1. These scenarios potentially involve statements with evidentiary value upon which a witness may be impeached in court. As such, accuracy is a priority. Accordingly, a PPDAI will be used as an interpreter when taking any formal statement or interview. If a PPDAI is not already on location with the investigator, the investigator will contact Police Radio at 686-xxxx, 686-xxxx or 686-xxxx to determine if a PPDAI is available to respond to the investigator's location. In the event there are no PPDAIs available to respond, the contracted in-person interpretation service shall be utilized, as outlined in Section 4-C.

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NOTE: Any person who is deaf and prior to interviewing, the investigator shall make available to the person who is deaf an interpreter who shall be present with the person who is deaf throughout the interview. A sign language interpreter can be requested by notifying Police Radio at 215-xxx-xxxx.

C. Complaint Procedures for LEP Persons

1. Any LEP individual, who wishes to file a complaint with the Department regarding language access, or the discharge of Departmental duties, shall be provided with translated Internal Affairs complaint forms.
2. The assigned Internal Affairs investigator will use a PPDAI when conducting any interviews of LEP complainants or witnesses. If a PPDAI is not already on location with the investigator, the investigator will contact Police Radio at 686-xxxx, 686-xxxx or 686-xxxx to determine if a PPDAI is available to respond to the Internal Affairs investigator's location. In the event there are no PPDAIs available to respond, the contracted in-person interpretation service shall be utilized, as outlined in Section 4-C.
3. Internal Affairs will provide written notice of the disposition of any LEP complaint in the complainant's primary language.
4. In the event formal disciplinary charges result from an LEP complaint, the Department Advocate will insure that a contracted in-person interpreter is available for any scheduled hearing.

6. PROCEDURES FOR ACCESSING DOCUMENT TRANSLATION SERVICES

A. Identification and Translation of Vital Documents

*4

1. The Commanding Officer of the Research and Planning Unit (R&P), with assistance from the Mayor's office of Immigrant and Multicultural Affairs (MOIMA) and guidance from the Department of Justice, shall be responsible for

DIRECTIVE 7.7 - 6

classifying all documents as vital or non-vital, and determining into what languages the vital documents should be translated.

2. R&P will assess demographic data, review contracted language access services utilization data, and consult with community-based organizations in order to inform these decisions. The Commanding Officer of R&P will be responsible to have the documents translated and distributed.
3. Requests by Other Units for Document Translation:
 - a. Although R&P shall be the central conduit for document translation; all police personnel shall have access to this service if needed. The following procedures shall be used:
 - 1) Should a Commanding Officer identify a need for a specific document to be translated, a memorandum will be forwarded to the Commanding Officer of R&P. R&P will review the request against the requirements listed in Section 6-A, confirm that no similar document has already been translated, and then process the request through the appropriate vendor.

B. Translation of Investigative Documents

1. Should an investigator need a note, letter or other document translated for an investigation, a memorandum will be forwarded to the Commanding Officer R&P, approved by the investigator's highest ranking supervisor available, with a *copy* of the original note, letter or other document to be translated. Indicate if the translation is needed immediately, otherwise specify the date required.

7. NOTIFYING THE PUBLIC ABOUT DEPARTMENTAL LANGUAGE SERVICES

- A. At each police building with direct public access, signs shall be posted in the most commonly spoken languages at each public access point or lobby stating that interpreters are available free of charge to LEP individuals.
- B. The Department shall also maintain translated written public forms and documents for LEP individuals. A list of these documents and forms along with the available languages is listed in Appendix A of this directive.
- C. Notification of the availability of translated forms and documents will be posted in the public lobby of Police Headquarters, districts, units and detention facilities to inform LEP persons about which forms are readily available. In the case of illiteracy or languages into which materials have not been translated, such forms and documents will be read to LEP individuals in their primary language.
- D. The Commanding Officers of all districts and units with direct public access shall ensure that the signage is posted and visible to the general public.

DIRECTIVE 7.7 - 7

8. TRAINING - LANGUAGE ASSISTANCE POLICY AND INTERPRETER SKILLS

- A. The Department will provide periodic training to personnel about the Department's LEP policies, including how to access departmental authorized, telephonic and in-person interpreters. The Department shall conduct such training for new recruits, at in-service training, and at Roll Call for officers at least every two (2) years. Training shall initially be conducted within 180 days of the effective date of this Directive.
- *4 B. Police personnel identified as bilingual who are willing to act as PPDAs will have their language skills assessed by a professional interpreter using a structured assessment tool. Through its contract for in-person interpretation services, the Mayor's office of Immigrant and Multicultural Affairs will establish qualifications for the professional interpreters. The MOIMA will be responsible for approving the structured assessment tool.
- C. After assessment, those found proficient in interpreting into and from target language will be placed conditionally on the PPDAl List. The language assessment for police personnel hired as bilingual shall be waived if the employee chooses to act as a PPDAl. These employees will be placed conditionally on the PPDAl List.
- D. All police personnel conditionally placed on the PPDAl List must successfully complete the prescribed interpreter training within one (1) year. After successful completion of interpreter training, the individual will be unconditionally placed on the PPDAl List.
- E. In order to successfully complete interpreter training, an interpreter must:
 - 1. demonstrate proficiency in and ability to communicate information accurately in both English and in the target language;
 - 2. have knowledge in both languages of any specialized terms of concepts peculiar to the Department and of any particularized vocabulary and phraseology used by the LEP person and;
 - 3. understand and adhere to their role as interpreters without deviating into a role as counselor, legal advisor, or other roles.
- F. Those persons who have been unconditionally placed on the PPDAl List must receive refresher training annually or they will be removed from the PPDAl List. The Training Bureau shall be responsible for coordinating the annual refresher training and will maintain a record of training that the interpreters have received.

DIRECTIVE 7.7 - 8

9. MONITORING AND UPDATING LANGUAGE ASSISTANCE EFFORTS

A. The Department will take reasonable steps to develop in-house language capacity in the Radio Room by hiring personnel with specific language skills. Using the various assessment processes described in this directive the Department will determine its Radio Room staffing needs, and will work with the Personnel Department to recruit and hire qualified bilingual staff.

B. Complaint or Incident Reports (75-48) involving LEP contacts:

1. If during the course of handling an assignment where a 75-48 is required and police personnel either utilized his/her bilingual skills, the services of a PPDAl, an in-person interpreter or the telephonic interpreter service, the letters "LEP" along with the language in large bold letters shall be inserted in the lower section of the 75-48.

*1

2. A forced-entry field on the INCT transmittal screen has been created to tabulate language services provided by the Department to the public. The ORS or designee will ensure that the below designations are used in the INCT. These codes will be used on all police services when a Complaint or Incident Report (75-48) is required or submitted.

No Service Provided	0 (zero)
Arabic	1
Cambodian	2
Chinese	3
Korean	4
Russian	5
Spanish	6
Vietnamese	7
All Other Languages	9

C. Community Review:

1. The Commanding Officer of R&P, shall assess demographic data, review contracted language access services utilization data, and consult with community-based organizations annually in order to determine if there are additional languages into which vital documents should be translated.

D. New Documents:

1. The Commanding Officer of R&P will be responsible for annually reviewing all new documents issued by the Department to assess whether they should be considered vital documents and be translated.

DIRECTIVE 7.7 - 9

E. Collection of LEP Contact Data:

1. The Commanding Officer of the Communications Division will be responsible for collecting Police LEP contacts. This data may be collected through the review of radio desk logs (PPDAI usage) and billing statements submitted by the contracted telephonic and in-person service providers.
- F. The Police Commissioner or his/her designee shall be responsible for assessing demographic data, reviewing contracted language access services utilization data and consulting with community-based organizations to ensure that the Department is providing meaningful access to LEP persons to the services and benefits the Department provides in all Department-conducted programs or activities. This assessment and consultation shall be done in coordination with R&P.

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REDACTED - LAW ENFORCEMENT SENSITIVE

*3

10. DECISION TREES

- A. The following pages include decision trees (diagrams numbered 1 through 3) which will serve as guidelines to assist officers in performance of their duties with encounters with limited English proficient persons, Interpreters for 911 calls and Interpreters for criminal investigations.
- B. The decision trees will dictate officer responsibilities, provide decision making aids with resources, and give possible real world scenarios in efforts to educate and prepare officers in a changing multicultural climate.

DIRECTIVE 7.7 - 10

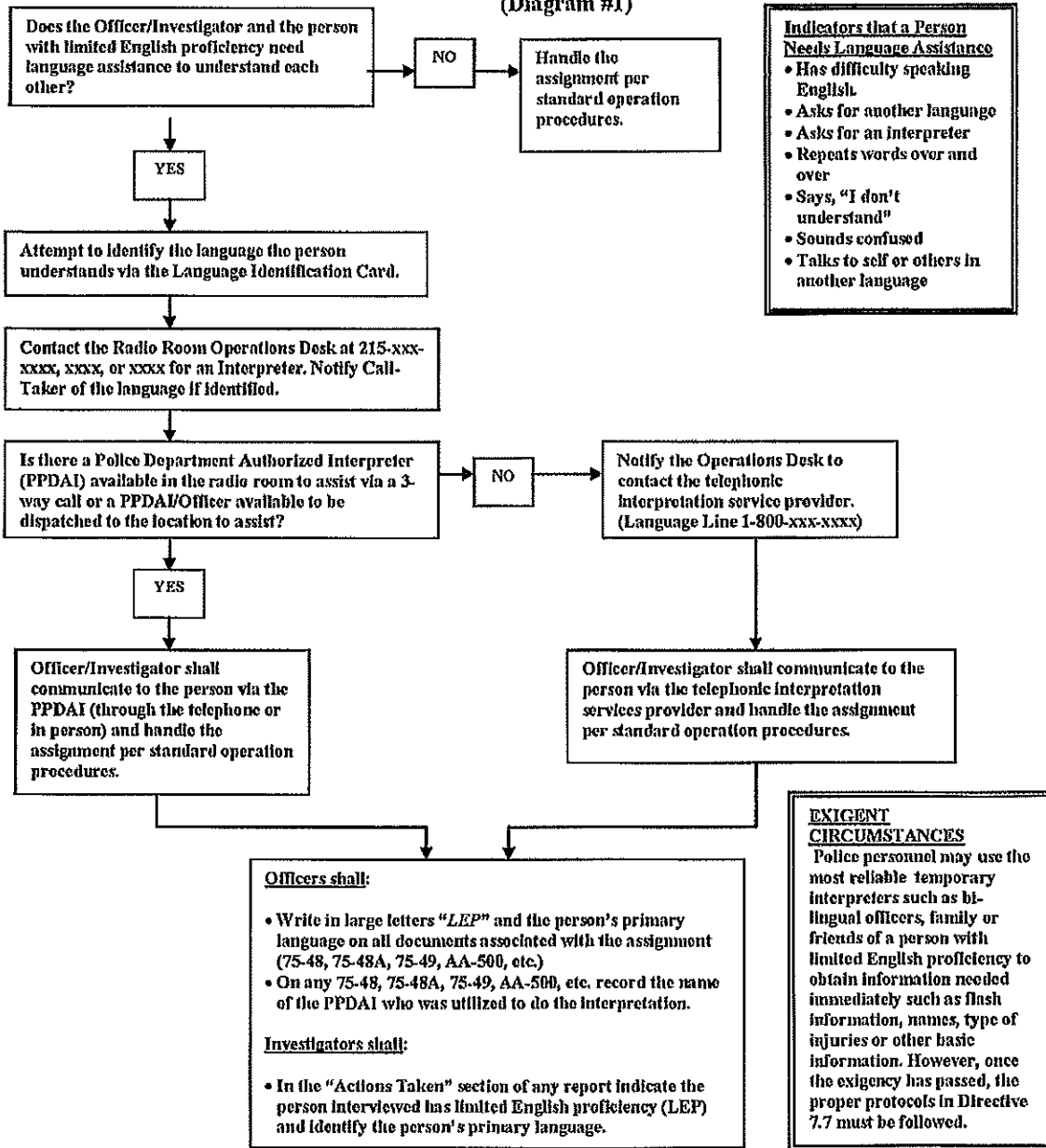
BY COMMAND OF THE POLICE COMMISSIONER

<u>FOOTNOTE</u>	<u>GENERAL#</u>	<u>DATE SENT</u>	<u>REMARKS</u>
*1	0857	03-27-06	Change
*2	0271	01-13-12	Addition
*3	4112	03-19-13	Addition
*4	6887	08-07-13	Change
*5	8425	01-16-14	Addition

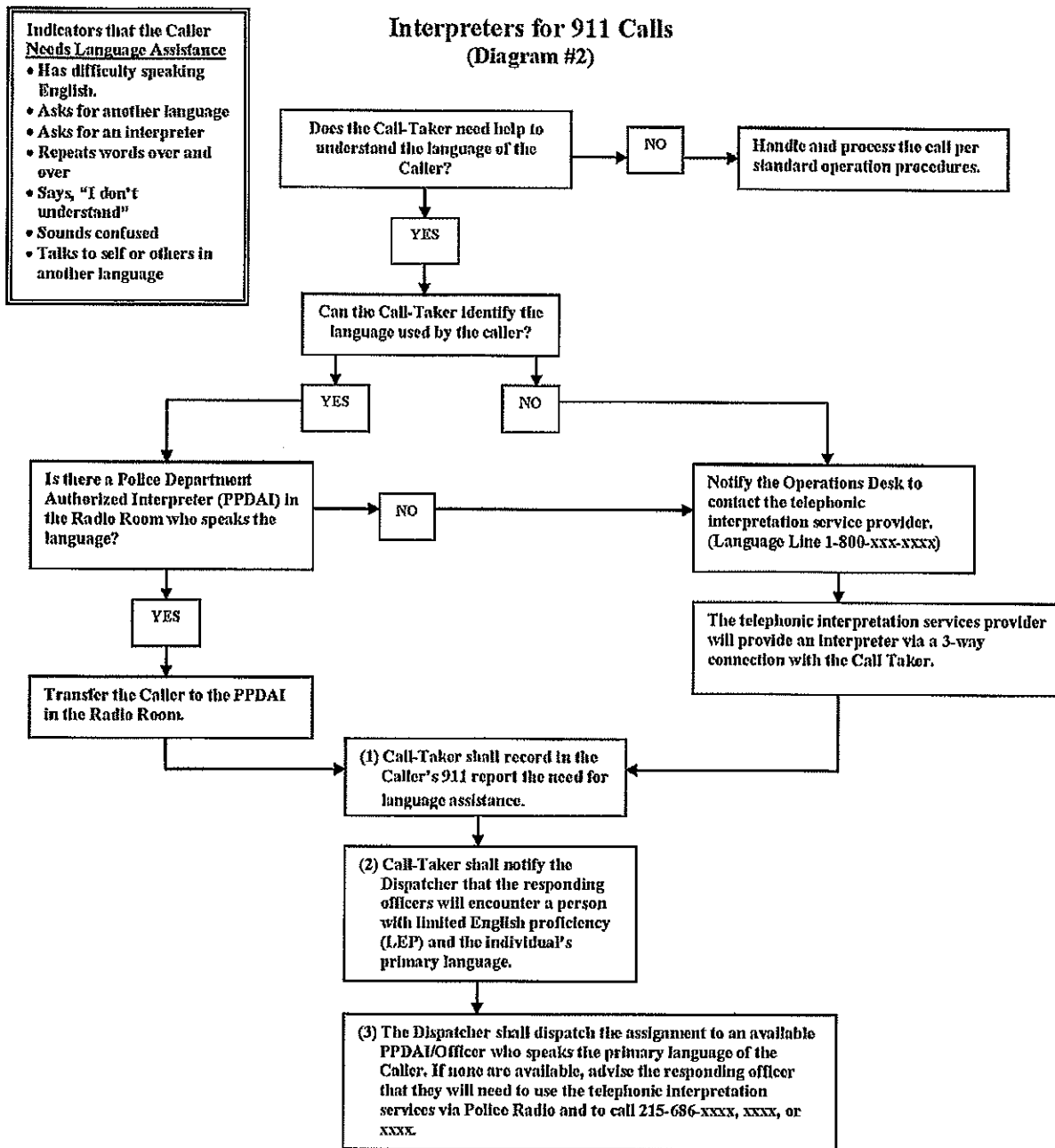
DIRECTIVE 7.7 - 11

Encounters with Persons with Limited English Proficiency (LEP)

(Diagram #1)

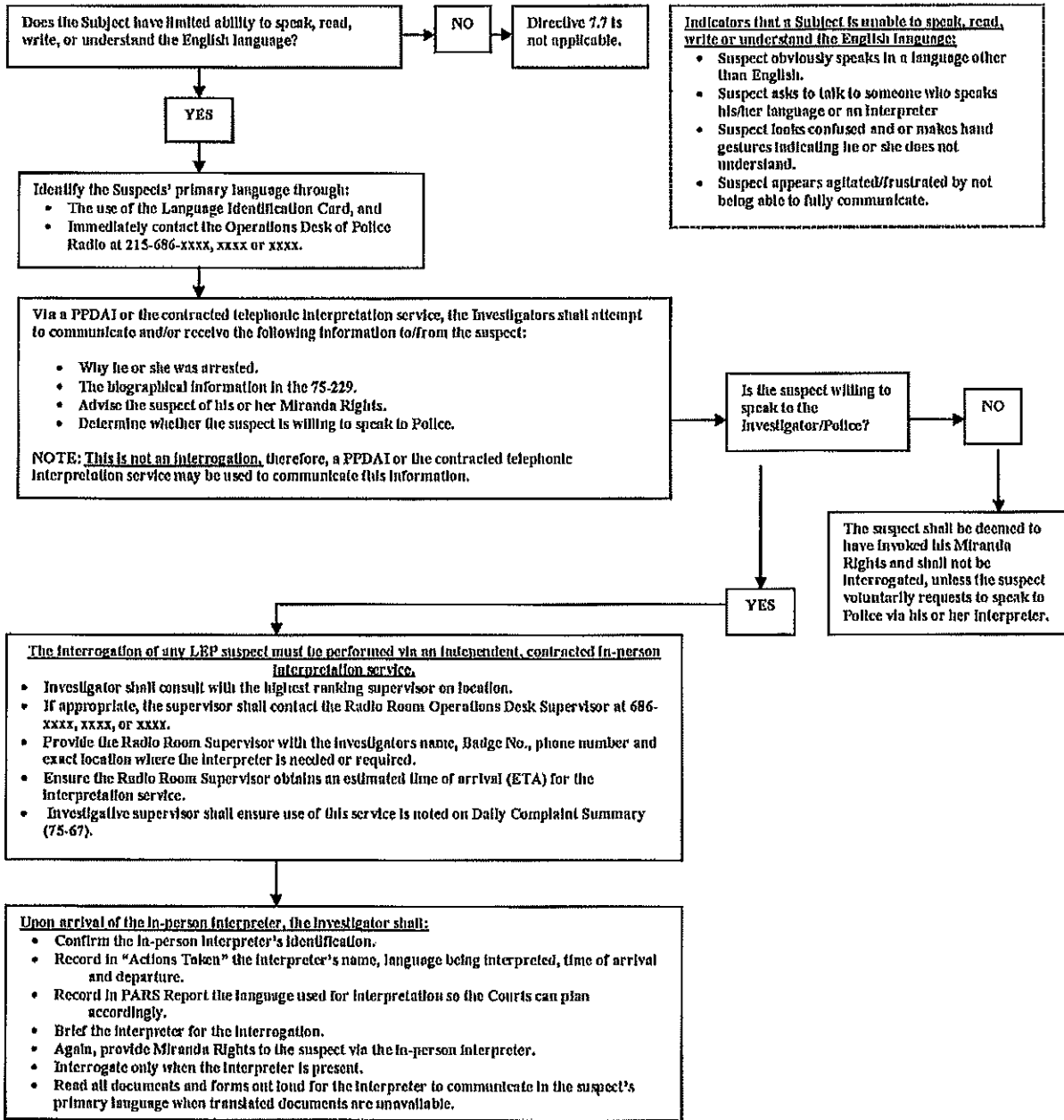


DIRECTIVE 7.7 - 12



DIRECTIVE 7.7 - 13

Interpreters for Criminal Interrogations
Starting with the Administration of Miranda Warnings
 (Diagram #3)



Indicators that a Subject is unable to speak, read, write or understand the English language:

- Suspect obviously speaks in a language other than English.
- Suspect asks to talk to someone who speaks his/her language or an interpreter
- Suspect looks confused and or makes hand gestures indicating he or she does not understand.
- Suspect appears agitated/frustrated by not being able to fully communicate.

DIRECTIVE 7.7 - 14



PHILADELPHIA POLICE DEPARTMENT

DIRECTIVE 7.7

APPENDIX A

Issued Date: 12-09-05	Effective Date: 12-09-05	Updated Date:
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SUBJECT: TRANSLATED POLICE REPORTS

TRANSLATED DOCUMENTS

The below forms have been translated into the following languages: Arabic, Cambodian, Chinese, Korean, Russian, Spanish, and Vietnamese.

<u>Form</u>	<u>Reference</u>
1. Abandoned Vehicle Report (75-140)	Directive 12.6
2. Bicycle Display Notice (75-293)	
3. Bicycle Safety Warning Card (75-619)	Directive 12.8
4. Citizen Complaint Report (75-561)	Directive 12.18
5. Code Enforcement Warning (75-95)	Directive 3.6
6. Consent to a Police Interview (75-Misc.-6)	Directive 12.12
7. Consent to Search (75-585)	Directive 5.7
8. Consent to Search DNA Form (75-625)	Directive 5.7
9. Criminal Registration Card (75-116)	Directive 5.13
10. Domestic Abuse and Violence Notice of Rights (75-Misc.-4)	Directive 3.9
11. Interrogation Card (75-Misc.-3)	Directive 12.12
12. Intoxication Release Certificate (75-440)	Directive 5.6
13. Juvenile Release Form (75-411)	Directive 5.5

**DIRECTIVE 71 - 1
APPENDIX "A"**

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|--|------------------|
| 14. Missing Person Affidavit Verification (75-571) | Directive 12.13 |
| 15. Polygraph Examination - Consent (75-475) | |
| 16. Search Warrant Information Card (75-614) | Directive 5.7 |
| 17. Sidewalk Behavior Ordinance 10-611 Warning Card (75-Misc.-5) | Memorandum 99-01 |
| 18. Statement Warning Questions – Page 1 (75-331D) | |
| 19. Statement Warning Questions – Page 2 (75-331E) | |
| 20. Tenant’s Referral Notice (75-Misc.-9) | Memorandum 98-05 |
| 21. Towing Report (75-Misc.-7) | Directive 12.5 |
| 22. Towed Vehicle Notice (75-618) | Memorandum 02-04 |

BY COMMAND OF THE POLICE COMMISSIONER

**DIRECTIVE 7.7 - 2
APPENDIX “A”**

