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POILEAS ALBA

Interpreting and Translating Services

Standard Operation Procedure

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Owning Department:	Specialist Crime Division – Safer Communities
Version Number:	6.00 (Publication Scheme)
Date Published:	06/07/2018

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Compliance Record

Equality and Human Rights Impact Assessment (EqHRIA) Date Completed / Reviewed:	10/01/2017
Information Management Compliant:	Yes
Health and Safety Compliant:	Yes
Publication Scheme Compliant:	Yes

Version Control Table

Version Number:	History of Amendments:	Approval Date:
1.00	New addition to Police Scotland Record Set	28/03/2013
1.01	Minor amendments as a result of the EIA process	04/06/2013
2.00	Insertion of national Contact Numbers in D Division Geographical Appendices, reformatting of Preliminary Material. Removal of Geographic Appendices, due to introduction of national service providers.	03/02/2016
3.00	Minor amendment to Appendix 'D'	20/07/2016
4.00	Amendments to provision of interpreting and translating services process as per Force Memo PS 002/17 detailed under Section 2.3 and in appendices 'D' and 'F'	10/01/2017
5.00	Amended email address for SCD Diversity Unit at paragraph 2.3.5 and on Appendix 'D' and Human Rights legislation corrected on Appendix 'A'	12/01/2017
6.00	Amendment to Service Providers Details with Signposting to Interpreting and Translation Services Intranet Page.	06/07/2018

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1. Purpose

- 1.1 This Standard Operating Procedure (SOP) supports the following Police Service of Scotland (herein referred to as Police Scotland) Policies:
- Crime Investigation
 - Criminal Justice
 - Custody
 - Equality, Diversity and Dignity
- 1.2 Police Scotland recognises the rights of all persons in their contact with the Police Service to understand and to be understood. These rights are enshrined in a number of legal judgements, and in certain statutes, both British and European.
- 1.3 This SOP provides guidance in relation to certain aspects of police interaction with persons whose first or preferred language is not English. It is not intended to give definitive advice in relation to every potential area of interaction but to offer guidance on the use of interpreters in circumstances that imply involvement in the formal judicial process.
- 1.4 For further information reference should also be made to the Police Scotland Diversity Booklet.

2. Procedure

2.1 The Lord Advocate's Guidelines

- 2.1.1 As a consequence of Raj Jandoo's inquiry into the Chokar case and the resulting recommendations, the Lord Advocate's Guidelines, dated February 2002, provide guidance to the police in relation to issues of assessment of language needs and cultural sensitivities, and the information which is required by the Procurator Fiscal (PF) from the police to ensure that liaison with bereaved relatives takes place in a manner which is sensitive to their religious and cultural needs.
- 2.1.2 These Guidelines which primarily focus on the Accused Persons, Victims and Witnesses will be adhered to as a matter of standard practice and are reproduced herein.

Lord Advocate's Guidelines:

In any case where it appears that the first language of the accused, victim or witnesses may not be English, the accused, victim or witness should be asked to state their "first" or preferred language should they be called to give evidence in court in due course. The accused, victim or witness should also be asked whether correspondence and documentation sent to them will require to be translated.

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The preference of the accused, victim or witness should be included in the police report. The Reporting Officer should also include an assessment as to whether the accused, victim or witness will require the services of an interpreter in court and to have correspondence and relevant documentation translated by the Procurator Fiscal.

The language and dialect required should be specified in the police report and in the full statement of a witness. If the reporting officer is unable to ascertain the language and / or dialect required, this fact should be set out in the police report to allow the Procurator Fiscal and the police to work together to ensure that a genuine assessment of the language needs of the individual takes place prior to attendance at court.

If the Reporting Officer is in doubt as to whether an interpreter is or is not required an interpreter should be provided by the police during the investigation and the Procurator Fiscal advised of the view of the Reporting Officer.

If in the view of the Reporting Officer, an interpreter will not be required, this should be specifically stated.

In cases where an interpreter is required for court purposes (either because of the request of the individual concerned or the view of the Reporting Officer) and it is necessary to ensure that religious and cultural needs are respected, the Procurator Fiscal should be advised of both the ethnic and religious background of the individual who requires interpreting services.

If it has been necessary to use an interpreter to interview the accused, victim or witnesses the name and contact details of the interpreter used by the police should be contained in the police report.

2.1.3 Instruction of Interpreters for Criminal Court Diets is set out in Appendix 'C' and forms a part of this guidance.

2.2 Circumstances Requiring the Use of an Interpreter

2.2.1 After an appropriate assessment of language needs, in line with the Lord Advocate's Guidelines; the use of an interpreter to facilitate communication with a person whose first/preferred language is not English shall be offered on those occasions when:

- That person is required to provide a witness statement that may be used in the course of the formal judicial process;
- That person is to be interviewed under caution in relation to a crime or offence;
- That person is to be required to submit to participation in an identification parade; and
- That person is to be cautioned and charged in relation to a crime or

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offence.

2.2.2 The use of police officers/staff as interpreters in circumstances that might lead to their involvement in the formal judicial process is **not** permitted. See Section 2.7.

2.2.3 In the event of doubt as to the requirement of the services of an interpreter, the advice of a supervisor should be sought at the earliest stage. In arriving at a decision in such cases, the principle of fairness to the accused or suspect should be the prime consideration. The individual should be asked whether they require an interpreter and one provided if requested. The Lord Advocate's Guidelines suggest, if the Reporting Officer is in doubt as to whether an interpreter is or is not required, an interpreter should be provided by the police during the investigation and the PF advised of the view of the Reporting Officer. If, in the view of the Reporting Officer, an interpreter will not be required, this should be specifically stated.

2.3 Engaging the Services of an Interpreter

2.3.1 When there is a requirement to engage the services of an interpreter it is the responsibility of the police officer or staff member requiring such services to make contact with the service provider.

2.3.2 Further information including contact details of service providers contracted to Police Scotland can be found on the Translation and Interpreting Service Intranet Page.

2.3.3 In circumstances where the contracted service providers are unable to provide the requested service then officers should make alternative arrangements as necessary. Details of failures by our contracted service providers should be forwarded by outlook to

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2.4 Restrictions on Use of an Interpreter

2.4.1 An interpreter assisting the police in the course of the interview of a witness, suspect or accused person, or in the course of a caution and charge of an accused person, becomes a witness in any resulting trial or hearing. That interpreter may **not** be used to interpret at a subsequent court proceeding.

2.4.2 An interpreter who assists the police in the course of a taped interview of a suspect or accused may **not** transcribe the tape of the interview.

2.4.3 It is **not** appropriate to use the same interpreter for opposing parties in criminal cases.

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2.5 Arranging Interpreters for Court Appearances from Police Custody

2.5.1 In relation to the arrangement of interpreters for persons appearing from police custody at any diet of court, Police Scotland will, as part of an agreed protocol with the Scottish Courts Services (SCS) Crown Office and Procurator Fiscal Service (COPFS), (reproduced at Appendix 'C') arrange for the attendance of an appropriate interpreter, irrespective of it being a first appearance or on subsequent warrant i.e. where due to obvious time constraints, the COPFS Office would be unable to arrange for such attendance.

2.5.2 This will be arranged by contacting the approved SCS service provider, this should not be the same interpreter who assisted earlier in the investigation.

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- Global Language Services (2nd Ranked Supplier), Tel **0141 429 3429**

(See Appendix 'C' – Instruction of Interpreters for Criminal Court Diets Protocol for full guidance and contact details).

2.5.3 Any difficulties in obtaining the services of an interpreter for an accused person appearing from custody must be intimated to the PF by the police at as early a stage as possible.

2.5.4 Expenses in this regard will be borne entirely by the SCS, and the service providers will invoice the Court Service directly.

2.6 The Procurator Fiscal or Scottish Children's Reporters Association and the Provision of Interpreters

2.6.1 The PF, or the Scottish Children's Reporters Association (SCRA), must be advised of the requirement to provide the services of an interpreter, along with any other information which will facilitate the efficient disposal of the case. In cases requiring the provision of the services of an interpreter, the 'remarks' section of police reports should contain the following information:

- Notification of the requirement to provide an interpreter;
- Advice as to the preferred language of the accused or witness;
- A cross-reference to the details of interpreters listed as witnesses, and the Agency they are from; and
- It is necessary to ensure that religious and cultural needs are respected, therefore, the details of the ethnic and religious background, where known, of all individuals who require interpreting services should be included in the report.

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2.7 Use of Family, Friends and Police Officers in Non-Investigatory (Informal) Settings

- 2.7.1 The linguistic abilities of friends, relatives or neighbours of the subject may be acceptable in certain circumstances. Consideration must, however, be given to the nature of the communication, and such sources should not be used when the information to be imparted might reasonably be regarded as being of a private or confidential nature.
- 2.7.2 A number of police officers and police staff possess linguistic abilities which may be of use to colleagues in facilitating communication with persons whose first / preferred language is not English.

2.8 Service Centres / Area Control Rooms

- 2.8.1 On receipt of a call from a person whose first / preferred language is not English, the services of the Telephone Interpreting Services will be utilised by Service Centre / Area Control Room (ACR) staff to engage the services of the appropriate interpreter via a three-way dialogue to ascertain the nature and urgency of the call.

3. Good Practice Guidance

3.1 Working with Interpreters

- 3.1.1 Good practice requires that an interpreter called upon to assist the police should be fully briefed on the circumstances giving rise to that requirement for their services, prior to being deployed in an interview, particularly in relation to the sensitivities of the case e.g. child protection or sexual allegation.
- 3.1.2 The officer conducting the interview should seek the interpreter's advice as to the most productive structure in terms of the procedure for conducting the interview. Agree appropriate seating, lighting and acoustic arrangements and arrange any other special requirements, for example a hearing loop or access to accessible / adapted toilets.
- 3.1.3 Check if there is any possible conflict of interest between the interpreter and the person for whom they are interpreting. The interpreter should inform you of this immediately it becomes apparent. This is particularly relevant if the language is uncommon and there are a small number of language users in the community.
- 3.1.4 Check if there are any cultural issues that should be taken into account.
- 3.1.5 Ensure the interpreter has advance sight and discussion of any of the procedures and forms to be used and the relevant meanings to be conveyed, for example cautioning a suspect. Avoid jargon and acronyms and provide an explanation of any technical terms.

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- 3.1.6 Agree a procedure for resolving difficulties and interventions. It is of crucial importance that the interpreter has the confidence to interrupt the interview in cases where parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used.
- 3.1.7 Remember that a sign language interpreter must listen to what is said and then interpret and it is especially important to avoid leading questions. This means that they work slightly behind what each speaker is saying, sometimes by up to 10 or 20 seconds. Therefore, think about being concise and pausing so there is not too much for the interpreter to convey at the one time.
- 3.1.8 Allow appropriate breaks for the interpreter at a natural break in the proceedings, where possible.
- 3.1.9 Remember when speaking; address the suspect or witness and not the interpreter. Do not address the interpreter with questions such as “could you ask the suspect...”
- 3.1.10 Do not discuss issues with the interpreter that does not require interpretation. This can make the witness or suspect feel uncomfortable, suspicious and/or excluded. If such issues do require discussion, ask the interpreter to explain this to the witness or suspect, or delay the discussion until you and the interpreter are alone.
- 3.1.11 Do not leave the interpreter alone with the suspect or witness. Officers must be aware of their duty of care owed to the interpreter in the form of health and safety provisions. In addition, the interpreter may be put under pressure from the person to take on tasks beyond their remit.
- 3.1.12 An interpreter is a professional in their own right, possessing specific skills. The interpreter’s function is to facilitate communication between the police and the subject. They will not act as an advocate for either party.

3.2 Sign Language Interpreters

- 3.2.1 Research has shown that the optimum period for sign language interpreting is 20 minutes; therefore suitable breaks will be required.
- 3.2.2 If the interview is lengthy, consideration should be given to the use of more than one interpreter. Interpreters may interchange roles at intervals of around 15 – 20 minutes.
- 3.2.3 Whilst it may appear that one is resting while the other is signing, the non-signing interpreter is listening closely to what is being said and discreetly offering support – they are both working all the time.
- 3.2.4 Officers should speak directly to the Deaf person even although the Deaf person may not be able to look directly at you.

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3.2.5 Officers should not ask the interpreter questions or make comments to the interpreter, whilst interpretation is being provided, unless it is a point of clarification. Avoid using leading questions. In British Sign Language there are a number of words where there is no exact equivalent to the English generic term – e.g. weapon, window, door. Sign language is very descriptive and if you use a general term like weapon, the interpreter has to make a choice of a type of weapon before signing the interpretation. Therefore, always try to be precise in the narrative.

3.2.6 English is not necessarily a Sign Language Users' first language. Persons who are Deaf and require Sign Language translators must have any written communication translated on a face to face basis by a Sign Language Interpreter. This will ensure that any legal documentation is fully understood by them.

3.3 Blind or Partially Sighted Persons in Custody

3.3.1 Persons in custody who are blind or partially sighted must be able to fully understand any legal documentation put to them i.e. undertaking forms, solicitor access forms, etc. In such circumstances the person should be consulted as to their preferred method of communication utilising the services of an interpreter if appropriate. Reference should be made to the Police Scotland Diversity Booklet for further advice.

3.4 Strip Search

3.4.1 When a person in custody requires to be strip searched, the interpreter should either interpret the requirement for the search before it is commenced, or be in a position to interpret any exchange between the officers and the person in custody – whilst retaining privacy and dignity. In this situation the interpreter must be of the same gender as the person in custody.

3.4.2 The way in which a sign language interpreter is utilised in this situation should be anticipated and pre-agreed with the person in custody and the interpreter.

3.4.3 The interpreter thereafter becomes a witness in the case and should not be utilised to interpret at any trial in the same case.

3.5 Custody Requiring Medical Attention

3.5.1 If during their initial reception process, or at any point during their time in custody a person whose first / preferred language is not English complains of being unwell or injured the custody guidance notes should be followed. The required action to be taken will depend on the immediacy of the medical problem and the person in custody's ability to describe their symptoms. If an immediate response is required, telephone interpreting should be utilised.

3.5.2 Following telephone interpreting the person in custody's answers will be assessed and the information conveyed to emergency medical staff or the Health Care Professional. Where the situation does not require an immediate response, face-to-face interpretation should be utilised.

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3.5.3 The interpreter should be of the same gender as the person in custody given the possibility of the need to use medical or physiological terms. The interpreter should be fully briefed prior to initial contact with the person in custody. Thereafter guidelines concerning interpretation and documents requiring the person in custody's signature should be followed.

3.6 Fingerprints

3.6.1 The need for the presence of interpreters when impressions, samples or photographs are obtained is self-evident. An explanation given by the officer and fully understood by the person in custody as to the requirement for the procedure and the manner in which it is to be carried out is a legal requirement.

3.6.2 Given cross-gender issues, it is advised that female officers carry out any procedure which necessitates physical contact with a female custody. Reference should be made to the Police Scotland Diversity Booklet for further advice

3.7 Medical Examinations

3.7.1 In most cultures, and in particular those of South and East Asia, physical modesty is of paramount importance. Generally, within Muslim Communities it is considered inappropriate for an unmarried woman to be in the company of unrelated males. As with all victims of sexual assault or rape it is essential that the impact of this traumatic experience is recognised and the victim treated with care and sensitivity. Reference should be made to the Police Scotland Diversity Booklet for further advice

3.7.2 Where an intimate medical examination is required and the person to be examined requires an interpreter, the interpreter must be of the same gender as the victim. He or she should be fully briefed as to the nature of the procedure and the requirement for it to be carried out.

3.7.3 When the interpreter is female it must be considered that they are likely to share the cultural reticence to the use of obscene, sexual or biological specific terms. Additionally there may be genuine unfamiliarity with slang words or euphemisms which may be used by the victim. It is therefore important to give as much preparation time as possible, to allow the interpreter to maintain the high degree of accuracy required.

3.7.4 When there are cultural implications, both the Police Officer and the Health Care Professional should be of the same gender as the victim.

3.7.5 During the examination the Interpreter should be positioned where they are able to hear and interpret all exchanges but are not able to see the victim.

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3.7.6 This will have to be modified when a Sign Language Interpreter is utilised to assist with the examination. The Interpreter will have to be positioned where the victim can see them. All efforts should be made to utilise a screen in order that neither the victim nor the interpreter has direct sight of the examination procedure.

3.8 Defence Agents

3.8.1 When a defence agent is present in an interpreted exchange between officers and a witness, suspect or accused, then, in fairness to the person, the contributions of all present, including the interpreter should be interpreted.

3.8.2 When a defence agent wishes to speak to their client privately, there is no obligation on the Police to provide interpreting services. If the defence agent wishes the presence of an interpreter it will be their responsibility to make the requisite arrangements.

4. Police Reports and Court Procedures

4.1 Information Required In Standard Police Report

4.1.1 The Lord Advocate has issued guidelines on what information should be included in Standard Police Reports (SPR) and Sudden Death Reports when an interpreter is used. These guidelines are included as a template within the SPR.

4.1.2 This includes:

- Any interpreting needs identified for witness, suspect or accused;
- The details of the interpreter;
- The language and dialect of the witness, suspect or accused;
- Any cultural / religious issues affecting the person; and
- That an interpreter has been arranged for the accused first appearance from custody.

4.2 Interpreting Assistance at Court

4.2.1 In all cases where accused persons are appearing for the first time from custody the police will, so far as possible, arrange, on behalf of the SCS, for a suitably qualified and experienced interpreter to appear at court to assist the accused. This will include persons appearing on warrant and on an undertaking (see Appendix C).

4.2.2 The court interpreter should be arranged as soon as possible after the arrest to give the agency as much time as possible to arrange an interpreter for the custody court.

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- 4.2.3 The interpreter engaged for court should not be the same interpreter who was engaged during the investigation stage - although it is recognised that it may not always be possible to secure the services of a different interpreter with appropriate qualifications and experience given the limited time available.
- 4.2.4 If difficulties arise in securing the services of an interpreter, the PF should be notified as early as possible.
- 4.2.3 The fee of the interpreter in such cases will be paid by SCS and they will instruct the interpreter for the accused for any subsequent court hearings.

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List of Associated Legislation

- Equalities Act 2010
- Human Rights Act 1998
- Race Relations (Amendment) Act 2000
- Disability Discrimination Act 1995
- Disability Discrimination Act 2005

List of Associated Reference Documents

- Police Scotland Diversity Booklet

Instruction of Interpreters for Criminal Court Diets Protocol

This protocol sets out agreed arrangements between Crown Office, Scottish Court Service and Police Scotland for the instruction of interpreters for criminal court diets. It is intended to cover the instruction of community, foreign and sign language interpreters and (interpreters required to assist people with sensory impairment).

It is the responsibility of the police to advise the procurator fiscal in the police report whether the accused or any proposed prosecution witness requires the services of an interpreter to give evidence in court. The reporting officer should specify the language and dialect required in the police report and should also provide the name, designation and qualifications of any interpreter used at the investigative stage so that the procurator fiscal and the Scottish Court Service may ensure that, so far as possible, the same interpreter is not used at any court diet.

It is the responsibility of the procurator fiscal to engage a suitably qualified and experienced interpreter, skilled in the language and dialect specified in the police report, to assist prosecution witnesses in giving their evidence. It is recognised that there is limited time available between arrest and the first appearance of an accused person in custody.

In all cases therefore where accused persons are appearing for the first time from custody/undertaking/warrant the police will, so far as possible, arrange, on behalf of the Scottish Court Service, for a suitably qualified and experienced interpreter to appear at court to assist the accused. The interpreter engaged for court should not be the same interpreter who assisted the accused during the investigation stage although it is recognised that it may not always be possible to secure the services of a different interpreter who has appropriate qualifications and experience given the limited time available. The fact that the police have engaged an interpreter for the accused's first appearance from custody should be set out in the police report to the procurator fiscal. If difficulties arise in securing the services of an interpreter the police should make early contact with the procurator fiscal. The fee of the interpreter in such cases will be paid by the Scottish Court Service and they will instruct the interpreter for the accused for any continued diets in the case.

In respect of all other criminal court diets, both pre-trial and trial diets, it is the responsibility of the Scottish Court Service to engage a suitably qualified and experienced interpreter, skilled in the language and dialect required to assist the accused. In respect of all other diets the procurator fiscal will advise the sheriff clerk (or in high court cases the Deputy Principal Clerk of Justiciary) in writing of the language needs of the accused, namely the language and dialect as set out in the police report, at least 14 days before the scheduled diet.

“It is recognised that the role of the interpreter in the criminal court is crucial. The procurator fiscal, Scottish Court Service and the police will ensure, so far as possible, that interpreters are engaged through recognised interpreting services and that interpreters engaged have appropriate qualifications and experience.”

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Crown Office 2008

Service Providers:

From Tuesday 12th November 2013 the following interpreting service providers are to be contacted, in order of preference, for all persons appearing at court for the first time from police custody who require the services of an interpreter.

First Preferred Provider:

Global Connections (Scotland) Ltd.
3rd Floor,
180 Hope Street.
Glasgow
G2 2UE

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Second Preferred Provider:

Global Language Services Ltd.
Craig House.
64 Darnley Street.
Glasgow

Telephone: **0141 429 3429**
Email: mail@globalglasgow.com

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