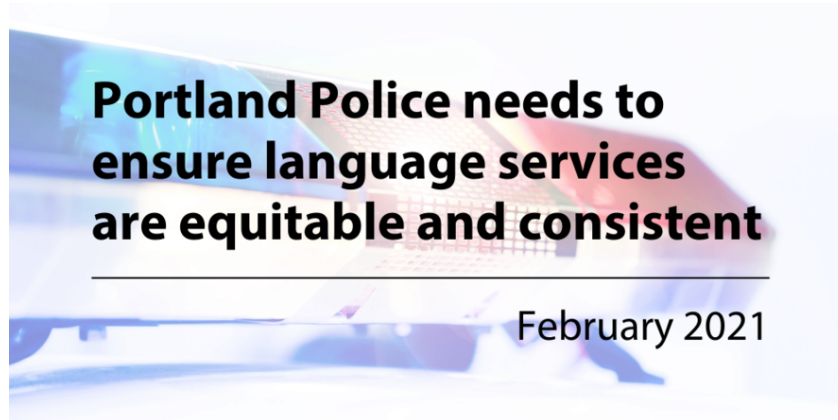


Portland Police needs to ensure language services are equitable and consistent

 portland.gov/ipr/news/2021/2/11/portland-police-needs-ensure-language-services-are-equitable-and-consistent

February 11, 2021



Independent Police Review took a closer look at interactions between police officers and community members who may need language services and recommended changes to the Portland Police Bureau to strengthen effective communication.

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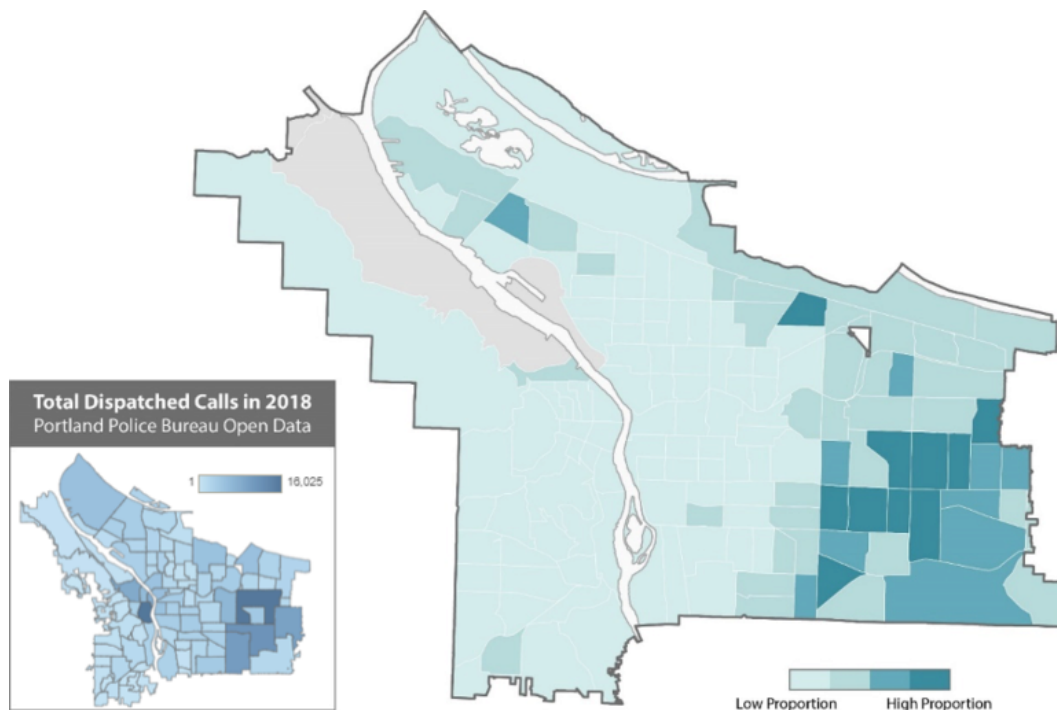
Executive Summary

The Portland Police Bureau does not provide officers with enough guidance on when to engage language resources and which resources are most helpful for communicating in different interactions with non-English speakers. We initiated this policy review based on complaints from community members about language barriers and officers inconsistently using language services. While the interactions described in these complaints did not always violate Bureau policy, public safety agencies are obligated to provide meaningful language access services and ensure community members have the ability to communicate effectively and be understood. We recommend that the Bureau revise its directive related to language access services and include guidance on which language resources to use in particular situations.

Ineffective communication erodes trust

The City of Portland's most recent population analysis estimates that approximately one in 12 Portlanders are considered to have limited proficiency with the English language. The areas with higher concentrations of people with limited English proficiency are similar to the areas where the Police Bureau reports the most dispatched calls for service. Bilingual officers confirmed that their abilities are most commonly requested by the East precinct.

East Portland neighborhoods have highest proportions of individuals with limited English proficiency



Source: PortlandMaps – Open Data, American Community Survey 5-year estimate 2010-2014

Ensuring meaningful access to language services is especially important for agencies providing public safety functions. A community member's trust in police is heavily tied to the ability to communicate effectively and be understood, which makes communication in a person's most comfortable language a critical aspect of police encounters.

Independent Police Review initiated this review based on complaints from community members about language barriers in their interactions with police. While the complaints did not always violate Bureau policy, they ran counter to good public safety practices and made community members feel unheard. Common themes across complaints included:

- Being denied an interpreter when requested;

- Miscommunications and confusion when officers use a person's family member to interpret; and,
- Searches occurring without the informed consent of a community member.

Community members shared a range of impressions in a survey. Some believed officers were appropriate and professional, and when they tried to communicate through a mix of English and their native language, officers tried their best to understand. Other community members said it was difficult to secure someone to translate, too complicated to get the help they needed, and that officers were intimidating and displayed a lack of cultural sensitivity.

Even if officers try their best in these situations, the confusion or frustration a community member may feel after an interaction still matters. One negative interaction with a law enforcement officer can shape a person's trust and experience of the entire justice system.

Bilingual officers fill some interpretation needs, but guidance is limited

Bilingual officers provide language support through an informal request process, but more guidance and structure is needed to ensure equitable service outcomes.

The current policy directs officers to first request a bilingual officer before trying other methods, such as an interpreter contracted to provide interpretation services or the Language Line application. Community members who have experienced working with bilingual officers expressed appreciation for their help, but the process has drawbacks.

Bilingual officers said the process for dispatching an officer for language assistance is often a request broadcast widely over the radio. Officers may respond to calls that would benefit from their language proficiencies, which can occur in a different precinct and patrol area, so long as they radio their sergeant for permission. While officers said sergeants generally have been supportive in those circumstances, it is up to the officers to figure out if they have the appropriate level of language proficiency to be useful to specific calls.

Officers converse in the community member's preferred language and then give relevant information to the primary officer on the call. They do not typically write the reports for these calls but provide the content.

Officers said their language skills are best used in conversational settings and are not at the level of certified translators and interpreters. In highly technical or complicated cases, officers can convey the intent of a conversation but do not have the training to provide word for word interpretation on legal matters.

Bilingual officers expressed a desire to do what they can to help their communities, but there are a limited number of them and fewer for less common languages. Not only does this constrain the services that can be provided but relying on volunteer officers to traverse the city also adds to the amount of time a community member must wait for their issue to be addressed. Additionally, IPR received complaints that officers sometimes do not use a bilingual officer or any other translation methods, such as the language line, and do not give clear justification why they don't. We identified three areas where officers need more guidance:

1. A clearer standard for a language service is needed

Directive 640.36 makes officers responsible to determine when someone needs language services to “access and/or understand important rights, obligations and services that have a nexus to the contact.” This standard is arbitrary as there are no *unimportant* rights, obligations, and services when it comes to the provision of public safety. The U.S. Department of Justice establishes that recipients of federal assistance must provide meaningful and equitable access to services so that outcomes are the same as for the English-speaking community. It should not be left to an officer's discretion to determine a community member's language proficiency.

2. Prohibiting informal forms of interpretation and translation

Contrary to good public safety practices, current policy does not prohibit officers from using individuals or family members present during an interaction to translate. IPR has received complaints about confusion that arose from using a family member as an intermediary. It may be necessary to gather information in an emergency situation from an individual or family member willing to interpret, but formal methods of interpretation should be used in most circumstances.

3. Clearer guidance on when it is appropriate to use a bilingual officer versus a certified interpreter or the language line

The bilingual officers employed by the Bureau do not receive incentive pay and are not legally certified translators or interpreters. While they enjoy serving their community and report they don't need incentive pay to keep providing their services, there is no record of their proficiency levels which jeopardizes the utility of information they learn while translating. Some officers described their language ability as conversational and acknowledge there are many situations that require higher fluency or technical training. The burden of removing oneself from interpreting should not be on the volunteer officer and guidelines for when professional services are needed should be clearly defined.

Changes to policy are overdue

The U.S. Department of Justice's Office for Civil Rights reviewed the Bureau's language services and provided recommendations in 2016. The recommendations suggested the Bureau ensure full compliance with federal regulations, which require agencies that receive federal funding to provide meaningful and equitable access to services so that outcomes are the same as for English-speaking communities. Many of the gaps identified by the Office for Civil Rights in 2016 are still present in current Bureau policy.

The directive that governs services for people with limited English proficiency also covers people with hearing impairments. The direction provided in the directive on when and how to use language services is limited and reliant on officer discretion. Although different language service methods are defined, the standards for using those methods are inconsistent with federal guidelines, and inefficient methods, such as using family members to translate, are not explicitly prohibited.

The Bureau said it is revising this directive and separating it from hearing impairment to address the unique needs of the different populations. Bureau policy analysts are expanding the directive to formalize processes that some officers use and address the gaps preventing full compliance with federal regulations.

Although the changes recommended by the U.S. Department of Justice in 2016 were not mandatory, the City has since approved a resolution that requires the Bureau work to comply with federal regulations and improve language services. The City passed the Language Access resolution in November of 2020 which directs all bureaus to implement practices and standards devised by the Office of Equity and Human Rights to identify and remove language access barriers. This resolution elevates the priority of language access obligations for all City bureaus and mandates reasonable steps be taken to comply with federal regulations and best practices.

Recommendations

1. Revise Bureau policy and practices to meet obligations established by the Language Access resolution and incorporate recommendations made by the United States Department of Justice including:

- a. Adopt a policy that requires the regular assessment of the number of people with limited English proficiency in the Bureau's service area,
- b. Incorporate two new data collection fields in the Bureau's mobile computing software that captures the preferred language of people encountered and the language assistance service provided,
- c. In the Bureau's report of the number of people with limited English proficiency in the service area, include and explain all available sources of language assistance, address how officers will be trained to use language resources, and a plan for notifying community members of available services, which documents will be available in different languages, and how the Bureau will monitor and update its plan to ensure continual effectiveness,
- d. Provide a list of available bilingual officers to officers on patrol and chief detectives, including proficient language and shift worked and share the bilingual officer list with dispatch services,
- e. Create an online portal that helps people file complaints related to language services and ensure precincts are stocked with copies of complaint forms in multiple languages,
- f. Have a qualified language professional translate webpages or, at the minimum, review PPB webpages that are currently translated by software for inaccuracies.
- g. Explore the feasibility of translating the criminal citation form into commonly encountered languages,
- h. Explore the feasibility of translating the rights advisement form into commonly encountered languages,
- i. Explore the feasibility of obtaining certification for bilingual officers, and
- j. Incorporate language assistance training into annual in-service curriculum.

2. In accordance with guidance from the Office of Equity and Human Rights and the Police Bureau’s Equity Team, provide direction to officers in a new translation policy on:

- a. Appropriate use of family members and civilians as interpreters only in exigent circumstances,
- b. Circumstances where it is necessary to use a certified professional interpreter instead of a bilingual officer,
- c. Precise circumstances where language services are required to be used.

View the Police Bureau's response to our policy review

View the [response to the policy review](#) from Portland Police Chief Chuck Lovell.

Reference: What do other police departments do?

The **San Francisco Police Department** staffs a satellite office to serve residents who are uncomfortable going to a police station and do not speak English as a first language. They also have a [webpage](#) dedicated to language assistance services that tells community members what to expect and provides downloads of the information in multiple languages. Its brochures clearly state that family members won’t be used to translate unless there is an emergency.

The **Seattle Police Department** allows officers designated as qualified interpreters to forego additional responsibilities and directs officers to not use family members or bystanders as translators. Seattle also created liaison positions to work directly with under-represented populations and tries to recruit and hire officers from immigrant communities by providing tutoring for written exams and financial education for assistance with repairing or improving credit.

The **Oklahoma City Police Department** has a [bilingual unit](#) made up of officers who pass a language proficiency test and receive incentive pay based on proficiency. This unit provides translators and interpreters for routine calls and builds relationships with non-English speaking communities.



CITY OF PORTLAND, OREGON



Bureau of Police

Ted Wheeler, Mayor

Charles Lovell, Chief of Police

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January 7, 2021

Mary Hull Caballero
City Auditor
1221 SW 4th Avenue, Room 140
Portland, OR 97204

Dear Auditor Hull Caballero:

I appreciate the opportunity to review and respond to the Independent Police Review Division's report regarding the Police Bureau's Limited English Proficiency Policy Review.

As discussed in the report, communicating effectively with all members of our community builds trust and improves public safety efforts. We agree with many of your recommendations and have been trying to further our communication abilities. This year at the beginning of the pandemic, we increased our usage of our Spanish twitter account by having a native Spanish-speaking officer translate key messages to post. Members of our Slovak Advisory Council and Muslim Advisory Council also volunteered to translate key messages regarding public safety efforts during the pandemic. Those messages were checked by the Language Line and then posted on our website. We learned later that those efforts were not allowed under the new Language Access Resolution, as all translations have to be completed by a City contractor. Therefore, prior to Election Night when we were concerned about possibly unrest in the city, we ensured we had key messages translated into four safe harbor languages by the City's translation contractors. On Election Night, we implemented a pilot project and had one of these contractors provide Spanish-language services. The contractor translated any orders by the Incident Commander to our Spanish Twitter feed during this fluid crowd control situation.

I present these examples to illustrate some of the thoughtful work that has been done recently to address language access. It also illustrates that while we greatly desire inclusive and widespread language access, we are challenged with some of the logistical issues involved as well as the significant costs associated with providing translation services. However, the Portland Police Bureau continues to work with the City's Office of Equity and Human Rights on how to begin to implement items contained within the Language Access Resolution.

Thank you again for allowing for an ongoing collaborative effort to address these important issues around communication with our community. I look forward to our continued partnership.

Sincerely,

Charles Lovell III
Chief of Police

CL/tws

Community Policing: Making the Difference Together
An Equal Opportunity Employer

City Information Line: 503-823-4000, TTY (for hearing and speech impaired): 503-823-6868 Website: www.portlandpolice.com

PPB Response to IPR LAP Recommendations

IPR Recommendation 1. Revise Bureau policy and practices to meet obligations established by the Language Access resolution and incorporate recommendations made by the United States Department of Justice including:

PPB Response: *The Bureau is currently redeveloping its language access policy (DIR 640.36). As a result of the review, the Bureau is, at present, considering several components of the IPR's recommendations. The Bureau will also ensure the policy satisfies requirements established in the Council resolution on language access.*

IPR Recommendation 1a: Adopt a policy that requires the regular assessment of the number of people with limited English proficiency in the Bureau's service area.

PPB Response: *This recommendation presents resource and logistical challenges if conducted at the Bureau level, given the scale of the proposed assessment. The Bureau understands IPR's desire for PPB to conduct regular assessments of the LEP community to inform its understanding of the needs of those groups. However, the Bureau submits that the City should bear the responsibility for measuring and evaluating the needs of Portland's LEP communities as it relates to all services the City provides to these groups. Per the resolution referenced in the recommendation, City Council directs OEHR to provide tools and resources to Bureaus to support the development of Bureau-specific policies and practices. Perhaps, OEHR could adopt this function.*

IPR Recommendation 1b: Incorporate two new data collection fields in the Bureau's mobile computing software that captures the preferred language of people encountered and the language assistance service provided.

PPB Response: *The Bureau agrees with this recommendation in concept and may be able to adopt it, in part. While it may be feasible for the Bureau to develop a system or mechanism by which it would track the number of LEP individuals with whom Bureau members have contact and document the language they encounter and communication aid/service utilized, the Bureau needs to determine the following, prior to agreeing to implementing the full recommendation: Optimal tracking mechanism (e.g., the CAD may not be practical); the incident level (e.g., incident level may affect sample size); and how members in different units will document this information (e.g., DET does not use the CAD or write a GO for all interactions.-this may further restrict sample size).*

IPR Recommendation 1c: In the Bureau's report of the number of people with limited English proficiency in the service area, include and explain all available sources of language assistance, address how officers will be trained to use language resources, and a plan for notifying community members of available services, which documents will be available in different languages, and how the Bureau will monitor and update its plan to ensure continual effectiveness,

PPB Response: *The Bureau echoes its concern expressed in response to Recommendation 1a as it pertains to this recommendation's reference to the assessment (1a); however, the Bureau does*

agree that it is possible to include member training and general language access resource information in any required reporting document.

IPR Recommendation 1d: Provide a list of available bilingual officers to officers on patrol and chief detectives, including proficient language and shift worked and share the bilingual officer list with dispatch services.

PPB Response: *The Bureau agrees with this recommendation and is currently exploring how to implement the change. The Bureau recently conducted a voluntary internal survey of its members to assess how many members have bi-/multi-lingual skills, their level of proficiency (self-described), and their willingness to provide interpretation and/or translation services as part of their duties/assignment. The Bureau views this as the first step to developing the internal list, as described in the recommendation.*

IPR Recommendation 1e: Create an online portal that helps people file complaints related to translation services and ensure precincts are stocked with copies of complaint forms in multiple languages.

PPB Response: *The Bureau agrees with the first part of the recommendation in concept, relating to on-line commendations and complaints. Furthermore, the Police Bureau believes these forms should also be provided on IPR's webpage as they also receive and process commendations and complaints. The recommendation around maintaining physical copies of complaint forms poses somewhat of a challenge, as it imposes a budget constraint.*

The Bureau commits to working with OEHR, and IPR, to both procure the necessary resources to provide equitable access to language resources and services, and to ensure that it (the Bureau) fulfills the obligations described in the language access resolution passed by City Council.

IPR Recommendation 1f: Have a qualified language professional translate webpages or, at the minimum, review PPB webpages that are currently translated by software for inaccuracies.

PPB Response: *Similar to its response to Recommendation 1a, the Bureau holds that this imposes resource and logistical challenges. Given that all City Bureaus' webpages are included on the City's site, the PPB submits that this should be a City function, as it requires a citywide language assessment and a determination about the languages in which the City should translate the sites.*

IPR Recommendation 1g: Explore the feasibility of translating the criminal citation form into commonly encountered languages.

PPB Response: *The criminal citation form is provided to PPB by the state court system, and the content of the form is prescribed by ORS. PPB would need to open a dialogue with the court system regarding the feasibility of translation. Even if the courts approve the translation, the*

cost of translating, printing, and distributing the forms places a substantial financial burden on PPB.

PPB suggests a more fiscally responsible solution is to provide information and resources on the City's Website, in commonly encountered languages, on the court process and citation form.

IPR Recommendation 1h: Explore the feasibility of translating the rights advisement form into commonly encountered languages.

PPB Response: *PPB agrees with this recommendation. However, the cost of translation, printing, and distribution of the forms would place a financial burden on the Police Bureau. The Police Bureau suggests developing an on-line resource to reduce the overall cost of implementing this recommendation.*

IPR Recommendation 1i: Explore the feasibility of obtaining certification for bilingual officers.

PPB Response: *The Bureau agrees with this recommendation in concept, as it recognizes the importance of establishing proficiency standards for members who provide interpretation and translation services. Creating a certification program for members not only officially authenticates members' language skills, but it also ensures that the Bureau's communication with LEP individuals is accurate, consistent, and of high quality.*

The Bureau is currently in the process of exploring how to implement a certification program; however, such a program may be cost prohibitive in the current budget environment. The Bureau will aim to work with OEHR to ascertain what, if any, financial resources are available to support implementation.

IPR Recommendation 1j: Incorporate language assistance training into annual in-service curriculum.

PPB Response: *The Bureau agrees with this recommendation in concept. The nature, timing, and scope of this training may be contingent upon the budget. The Bureau certainly recognizes that members who provide interpretation and/or translation services may require extensive ongoing training related to using their language skills.*

IPR Recommendation 2. In accordance with guidance from the Office of Equity and Human Rights and the Police Bureau's Equity Team, provide direction to officers in a new translation policy on:

IPR Recommendation 2a: Appropriate use of family members and civilians as translators only in exigent circumstances,

IPR Recommendation 2b: Circumstances where it is necessary to use a certified professional interpreter instead of a bilingual officer,

IPR Recommendation 2c: Precise circumstances where language services are required to be used.

PPB Response: *The Bureau agrees with these recommendations and plans to incorporate related guidance into the revised directive.*