



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
POLICE COMPLAINTS BOARD
OFFICE OF POLICE COMPLAINTS**

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**PCB POLICY REPORT #18-2:
MPD Language Access**

Summary of Issue:

On July 16, 2009, the Police Complaints Board (PCB) issued the policy recommendation “MPD Provision of Police Service to Persons with Limited English Proficiency (LEP).”¹ Since that recommendation was released, the Metropolitan Police Department (MPD) has made great strides in updating their language access guidance and training for members. General Order 304.18: Language Access Program was issued on September 15, 2010, following the PCB’s recommendations, and it has been updated since then with the most recent version being issued on October 6, 2015.

In February 2013 MPD reported to the Office of Police Complaints (OPC), that Language Line Services Training, Language Access Act Training, and Diversity in the Workplace training were all being provided by MPD. Yet, at that time MPD reported that “an average of over 2400 employees” had completed the training. Since this is only approximately half of the sworn and civilian authorized personnel strength, and the report does not identify how many employees attended each of the three training sessions, there is a concern whether proper training requirements are being met.²³

Further, while reviewing body-worn camera footage for their investigations, investigators with the OPC have observed interactions with MPD officers where community members with limited or no English proficiency (LEP/NEP⁴) were not offered services in a manner that

¹ Available at <https://policecomplaints.dc.gov/node/174472>.

² See Policy Status-MPD Provision of Police Service to Persons with Limited English Proficiency, available at <https://policecomplaints.dc.gov/node/174472>.

³ On June 19, 2018, MPD Chief Newsham informed OPC that MPD is in the process of updating the General Order and training for language access.

⁴ In the previous PCB report only the term LEP was used, as was the practice of the Department of Justice at the time. However, the DC Office of Human Rights and MPD use LEP/NEP, and this report will use that term as well to maintain consistency.

complies with MPD’s directives. This report highlights some examples of this issue and examines what can be done to further improve the services provided to those with LEP/NEP.⁵

Case Examples:

It is illustrative to look at specific complaints that have been brought to OPC as examples of the difficulties that officers face in the field when dealing with language access, and the consequences of the officers’ choices for the community members.

Example 1: In November 2017, the complainant, a Mandarin speaker, was pulled over by an MPD officer for a traffic violation. The body-worn camera footage captured the incident and showed that the officer and the subject plainly did not understand each other. The officer proceeds to repeat himself several times, and often raises his volume, but at no point does he offer interpretation services or even inquire as to whether they are needed.

Example 2: In December 2017, the complainant, a Spanish speaker, was trying to report a theft to MPD, but the officer on the scene did not speak Spanish. The officer called to request a qualified interpreter. Shortly after, an officer arrived on the scene who did speak Spanish, and he interpreted some of the communication, but he then stopped and it became apparent that he was not a qualified interpreter.

These complaints merely exemplify some of the issues for LEP/NEP community members, and the frustration they can face when they are not able to be understood. They do highlight two issues though. First, the officer is shifting the responsibility to the community member to actually request interpretation. In example one, the subject never states that he cannot understand the officer, but when he clearly does not, the officer merely repeats himself louder. As the language barrier was creating an issue, the obligation is on the officer to inquire about the need for interpretation services, and to ensure the community member fully understands the officer. In example two, the issue is that Spanish is a fairly common language for officers to know or be familiar with, but that knowledge does not necessarily equip them to act as an interpreter. It is unclear whether the Spanish speaking officer in this case was dispatched to the scene or if he just happened upon it, but either way, an officer should not be interpreting when he hasn’t been approved to do so, and cannot complete the task.

Applicable Directives:

The Language Access Act of 2004, codified as D.C. Code §§ 2-1931 – 2-1937, was passed and signed into law on April 21, 2004. The Language Access Act established requirements for all District government programs, departments, and services with “major public

⁵ The Police Complaints Board (PCB) is issuing this report pursuant to D.C. Code § 5-1104(d), which authorizes the Board to recommend to the District of Columbia Mayor, Council, MPD Police Chief, and the Director of District of Columbia Housing Authority reforms that have the potential to improve the complaint process or reduce the incidence of police misconduct.

contact” to assess and meet the language needs of “the population served or encountered, or likely to be served or encountered.” This includes MPD. Entities are required to provide oral interpretation services to all clients and annually assess their oral interpretation services based on a four-point test, following a similar approach to federal guidelines. Entities are also required to provide written translations of documents and oral interpretation services for any language spoken by an LEP/NEP population that constitutes 3 percent or 500 individuals, whichever is less, of their service population, again, defined as “the population served or encountered, or likely to be served or encountered.”

MPD instructs the department of their responsibilities in terms of language access with General Order 304.18: Language Access Program, the current version of which went into effect on October 6, 2015. It clearly states that “It is the policy of the MPD to provide free language access services to all limited and non-English proficient (LEP/NEP) persons in a timely and effective manner. The provision of timely and effective communication services to LEP/NEP persons is a required activity for MPD members – MPD members must provide these services to all LEP/NEP persons they encounter, barring exigent circumstances.” Overall the procedures outlined for officers in this General Order are clear and direct. The guidance provided meets the Language Access Act’s requirements, and often goes beyond the guidance provided by other law enforcement agencies around the country.

An area of concern that does exist in the General Order is on the practice of using children, family members, or friends of the subject as interpreters. There are two different sections of the General Order that provide guidance: Regulations, sections D and E, found on page four, and Procedure, section F.7, found on page 14. In the Regulations sections it says that members shall not use a child/family member/friend as an interpreter unless there are exigent circumstances, and that members are to ensure that interpreters do not know the involved parties. This is contradicted by the Procedures section, which contains long criteria about when utilizing a child, family member, or friend is acceptable—only noting that an officer should not suggest use of these individuals as interpreters unless there are exigent circumstances. These provisions are rife for confusion and misuse.

In addition, MPD released Executive Order 17-021 on June 30, 2017. The purpose of the executive order was to remind members of required services LEP/NEP and to provide instruction regarding common forms that are available and must be provided to LEP/NEP arrestees. The substance of this executive order does not differ from GO 304.18.

Policy Concerns:

The District of Columbia has placed a high priority on eliminating language-based discrimination, and enabling DC residents, workers, and visitors to receive equivalent information and services from the DC government, regardless of what language they speak. This

is evidenced by the adoption of the Language Access Act of 2004 and the established oversight of the DC Office of Human Rights (OHR). As part of this oversight, OHR publishes annual compliance reports on how well the DC government is complying with the Language Access Act of 2004. These annual compliance reports include individual score cards for agencies that have significant contact with the public, which appropriately includes MPD.

In the 2016 Language Access Program Annual Compliance Review⁶, OHR properly gave MPD credit for having dedicated staff for their Language Access Program, and for employing bilingual officers. Similarly, the review highlighted that field testing was conducted at the Fourth, Fifth, and Sixth District police stations, and that testers received language assistance at all of them. However, the review also emphasized that MPD “has failed to meet training requirements since FY14,” and has “an urgent need for agency-wide training on providing quality service and language assistance to LEP/NEP constituents.”

The review by OHR shares the PCB’s reasons for identifying successful areas of MPD’s language access program and the areas where MPD has improved, while also confirming the PCB’s concerns with the language access training for MPD. In addition, while OHR reported their testers did receive language assistance when they went into stations, the incidents seen by OPC investigators that cause concern for the PCB have occurred in the field, which is a very different environment and appears to be untested by OHR. As a large amount of MPD’s interactions with the public occur in the field, rather than in a station, it is imperative that officers be equipped to handle the language access issues that arise outside of the confines of the station in order to meet the District’s commitment to enable LEP/NEPs to receive equivalent information and services.

Recommendations

To help improve and facilitate better relations and increase trust between MPD officers and community members, the PCB recommends that:

1. MPD should update General Order 304.18 to clarify that children, family members, or friends of the subject are not to be used as interpreters absent exigent circumstances only.
2. MPD must ensure that all members have a complete understanding of General Order 304.18 and the Language Access Act of 2004. This should go beyond written communication with members, and include training, as was also recommended by the OHR Language Access Program Annual Compliance Review.

⁶ This is the most recently published Annual Compliance Review, and it is available at <https://ohr.dc.gov/page/languageaccess/2016report>.

3. MPD must ensure that all members are aware and equipped to utilize all options to gain interpretation services, including a MPD certified interviewer, telephonic interpreter, or qualified interpreter, whether they are in the station or in the field. And MPD must ensure that only officers who are qualified to act as an interpreter are dispatched to do so.
4. MPD should ensure that all training includes tools for identifying when a person needs interpretation services. It must be made clear that the onus is not on the community member to request an interpreter, but on the MPD member to seek information and determine if there is a need to provide interpretation services.