



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

CERTIFIED-RETURN RECEIPT REQUESTED

January 8, 2008

William Landsdowne, Chief
San Diego Police Department
1401 Broadway
San Diego, CA 92101-5729

Re: San Diego Police Department Compliance Review (06-OCR-0055)

Dear Chief Landsdowne:

I am writing to report the findings of the Compliance Review of language services at the San Diego Police Department (SDPD), conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice. The OCR would like to thank your staff, especially Sergeant Roberto Casillas, for assisting OCR attorney JuanCarlos Hunt during his February 28 to March 2, 2006, onsite visit.

In my letter of January 9, 2006, I wrote to inform you that OCR had selected the SDPD for a compliance review under Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) and their implementing regulations. As I noted at that time, OCR limited the scope of the compliance review to the SDPD's provision of services to people with limited English proficiency (LEP). A LEP person is an individual whose primary language is not English and who has a limited ability to read, write, speak, or understand English.

In June of 2002, the U.S. Department of Justice published guidance for its financial aid recipients on taking reasonable steps to provide meaningful access to programs and activities for LEP persons in accordance with Title VI and the Safe Streets Act. See Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (2002) [hereinafter DOJ Guidance]. Using the technical assistance standards in the DOJ Guidance, OCR initiated this compliance review to determine the extent to which SDPD is providing language services to its LEP population.

After a thorough evaluation of the SDPD=s services and activities, including SDPD=s responses to our data request, OCR's discussions with representatives from LEP communities, and the

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information Mr. Hunt gathered during his onsite visit, which included interviews with the command staff, sworn officers, and firsthand observations, we sent you a draft report on September 26, 2007, in accordance with 28 C.F.R. §§ 42.107(d)(2) and .206(e). In a letter dated January 2, 2008, you stated that SDPD discovered two minor factual inaccuracies in the draft report, and requested that OCR amend the draft report to address these inaccuracies. The OCR amended the report accordingly on pages two and seven of this final Compliance Report.

In regard to the limited scope of our review, we conclude that SDPD appears to be taking steps to provide LEP persons with meaningful access to police services. However, the following Compliance Report contains recommendations based on DOJ guidance for how the SDPD may improve its services to LEP persons, beginning with developing a comprehensive written language assistance plan.

Compliance Review Report

This Compliance Review Report closely tracks the DOJ Guidance: first assessing the SDPD's obligation to provide LEP services and then reviewing the elements that the SDPD would include in a more effective plan for offering language assistance to LEP persons.

I. Assessing the Obligation to Provide LEP Services

According to the DOJ Guidance, a recipient's obligation to take reasonable steps to ensure meaningful access to its programs and activities for LEP persons requires an assessment that balances four factors: (1) the number or proportion of LEP persons that are the likely beneficiaries of a recipient's services; (2) the frequency with which LEP persons come into contact with the recipient's programs or activities; (3) the nature and importance of the program, activity, or service provided; and (4) the resources available to the recipient and the related costs. 67 Fed. Reg. 41459-61. In considering the application of these four factors to the SDPD, OCR offers the following observations and recommendations.

A. The Number or Proportion of LEP Individuals in the Service Population

In its data response, the SDPD provided OCR with a map demonstrating that it divides the City of San Diego (City) into the following eight divisions: Northern, Northeastern, Eastern, Southeastern, Central, Western, Southern, and Mid City. Subsequent to OCR's onsite visit, the SDPD notified OCR that it has added a ninth division, the Northwestern Division. The SDPD further explained in its data response that it operates a Headquarters building, nine decentralized area commands, and over 20 storefront offices. The SDPD provided a breakdown of the Northern, Northeastern, Eastern, Southeastern, Central, Western, Southern, and Mid City divisions' race and ethnic compositions, demonstrating that the City's Hispanic population appears to be concentrated in the Southeastern, Southern, Mid City, and Central divisions, and the City's Asian population largely resides in the Northeastern, Northern, Southeastern, and Mid

City divisions. The SDPD stated that it does not have information on the languages spoken in each division.

Based on the United States Census Bureau's 2005 American Community Survey, in 2005, the City had an estimated population of 1,114,932 residents age five and older; of this group, 231,337 spoke Spanish, and almost half of this number (114,015) spoke English less than "very well," which OCR considers LEP. U.S. Census Bureau, American FactFinder, San Diego city, California at <http://factfinder.census.gov>. Other City populations with more than 1,000 individuals age five and older speaking a language at home other than English include the following: Vietnamese (24,358, with 16,723 speaking English less than "very well"); Chinese (24,116, with 12,361 speaking English less than "very well"); Persian (7,659, with 3,372 speaking English less than "very well"); Japanese (6,339, with 3,262 speaking English less than "very well"); German (6,183, with 565 speaking English less than "very well"); Korean (5,946, with 3,848 speaking English less than "very well"); Arabic (5,674, with 2,698 speaking English less than "very well"); French (5,501, with 1,153 speaking English less than "very well"); Russian (5,330, with 2,572 speaking English less than "very well"); African languages (4,706, with 2,111 speaking English less than "very well"); and Laotian (4,648, with 2,266 speaking English less than "very well"). Id.

Recommendation

The SDPD should review the latest data from the Census Bureau to determine more accurately the language assistance needs of its service population. Many police departments have also found helpful the data collected by local school districts on the languages spoken by enrolled students in a given area. This data provides information on the foreign language groups in a particular area and their relative size. The SDPD also should track its LEP population to monitor population shifts.

B. Frequency of Contacts with LEP Persons

To respond to emergency telephone calls from LEP persons, the SDPD's Communications Division utilizes the services of Network Omni, a private vendor that provides telephonic interpreting services. For non-emergency calls, the SDPD utilizes the telephonic interpreting services of Language Line. The SDPD provided OCR with the most recent report it received from Language Line, summarizing the language services that Language Line provided to the SDPD. Based on accounting data that the SDPD provided to OCR during the onsite visit, OCR understands that this report covers services provided during the period of November 29, 2005 to February 15, 2006. According to this report, the SDPD used Language Line 291 times; 255 of these calls (approximately 88%) utilized a Spanish interpreter, 14 calls (approximately 5%) utilized a Vietnamese interpreter, and the remaining calls involved interpretation in Farsi, Somali, Amharic, Japanese, Polish, Portuguese, Russian, Laotian, Mandarin, Tagalog, Greek, and Urdu. The SDPD did not provide any reports from Network Omni.

The SDPD's Arrest/Juvenile Contact Report form includes a space for a SDPD employee to note whether the individual being arrested needs an interpreter and, if yes, for what language. The SDPD does not otherwise collect information on contacts with LEP individuals.

Language Line data underestimates significantly the SDPD's frequency of contact with LEP individuals. Language Line only captures the non-emergency telephone calls for service when the SDPD used Language Line; it does not capture emergency calls from LEP persons, most field encounters and walk-ins with LEP persons, or the non-emergency calls from LEP persons where the SDPD did not use Language Line. During the onsite interviews, several SDPD telephone dispatchers stated that they often resolve telephonic encounters with LEP persons without using Language Line or Network Omni, such as using their own language skills, the language skills of co-workers, or the language skills of friends or family members of the LEP individual. Consequently, the SDPD does not have reliable information about the number of requests for language assistance from LEP persons.

Recommendation

The SDPD should establish reliable systems for gathering information on contacts with its LEP service population. If it does not already do so, the SDPD should obtain periodic reports from Network Omni. The SDPD should also establish procedures for gathering data on all calls from LEP persons not referred to Language Line or Network Omni, including information on the nature of the call, the language requested, and the length of time a bilingual dispatcher or other interpreter spent with the LEP caller. Additionally, the SDPD should develop procedures for gathering data on face-to-face contacts with LEP persons that do not result in an arrest, either by modifying its existing reporting forms or by creating a new form. However the SDPD decides to do this, it should be sure to include information on the language spoken by the LEP person and the SDPD's response to the need for language assistance. The SDPD should then tabulate all of this data on an annual basis to determine the language needs of its LEP service population.

C. Important Public Services to LEP Individuals

1. Emergency and Non-Emergency Calls

The SDPD does not have any written policies on providing language services to LEP persons, other than a February 27, 2001, memorandum on its now-defunct Volunteer Police Interpreters Program.^{1,2} The SDPD's Communications Division handles both emergency and non-emergency

¹This memorandum from the Chief of Police to All Personnel reminds employees that bilingual volunteers to the SDPD are available to provide language assistance services during investigations, and instructs employees to contact the Communications Division to obtain these services. Based on the information obtained during the onsite visit, OCR understands that the Volunteer Police Interpreters Program no longer exists.

²In its data response, the SDPD also provided a March 2, 1999, SDPD Order regarding the use of sign language interpreters; however, the SDPD should be aware that the term "limited English proficiency" does not encompass

calls for police service. The call distributor Symposium initially receives emergency calls and then routes them to the Communications Division telephone dispatchers. During the onsite visit, Communications Division employees told OCR that emergency callers have the option to proceed in English or in Spanish; OCR understands that if a caller elects to proceed in Spanish, the call is routed to a Spanish-speaking dispatcher if one is available.

The Communications Division employees with whom OCR spoke stated that when a telephone dispatcher receives an emergency or non-emergency call from a LEP person, if the dispatcher speaks the appropriate language then the dispatcher will solely handle the call. If the telephone dispatcher does not speak the language of the LEP caller, the dispatcher relies on a bilingual co-worker to interpret, asks the LEP caller if the caller has a friend or family member nearby who can provide interpretation, or contacts a telephonic interpretation service. As previously stated, the SDPD obtains telephonic interpretation services from Network Omni for emergency calls, and from Language Line for non-emergency calls.

Once the telephone dispatcher assesses the needs of the LEP individual, if it is an emergency call, the telephone dispatcher formats an incident report and forwards it to a radio dispatcher for response; if it is a non-emergency call, the telephone dispatcher transfers the call to the appropriate office or division. One telephone dispatcher told OCR that she notes in the incident report if it is a LEP caller along with the relevant language. The telephone dispatchers with whom OCR spoke stated that the SDPD has not provided training on responding to LEP callers, but rather dispatchers learn through hands-on experience.

During the onsite visit, SDPD employees also reported receiving non-emergency phone calls from LEP persons at SDPD storefront offices and other SDPD facilities. The SDPD employees told OCR that they assist LEP callers by using bilingual SDPD employees, friends or family members of LEP callers, or Language Line.

2. Field Encounters and Walk-Ins

In its data response, the SDPD stated that it has numerous bilingual employees who speak a variety of languages and can provide language assistance. According to the SDPD, if an employee comes across a LEP person in the field or during a walk-in encounter, the employee can request the services of a bilingual employee either over the radio or through the Communications Division. The SDPD explained that the SDPD Communications Division, Human Resources Division, and Watch Commander's Office all have a list of bilingual SDPD employees who have been certified by the City to be fluent in a language other than English. The SDPD also noted that it has two multicultural storefront offices where bilingual officers can provide language assistance; later in its data response, the SDPD discusses a storefront office

staffed by officers fluent in Laotian, Vietnamese, Cambodian, Hmong, and African languages.³ The SDPD further explained in its data response that if an appropriate bilingual SDPD employee cannot be located, the Communications Division has access to two fee-based translation providers; OCR understands that these providers are the telephonic interpretation providers Language Line and Network Omni. The SDPD also stated that officers use friends and family members of LEP persons to interpret in field situations where the use of these individuals “would not compromise a criminal investigation or enforcement action.”

During the onsite interviews, SDPD officers and civilian employees told OCR that when they encounter a LEP individual, they first try to locate a bilingual SDPD employee to interpret, either by calling the Communications Division, requesting a bilingual officer over the radio themselves, or contacting a storefront office. Officers further stated that they access Language Line through the Communications Division in the rare instances where they cannot locate an officer or cannot identify the language being spoken. All of the SDPD employees with whom OCR spoke reported using friends or family members of LEP persons or third-party bystanders, including minors, to interpret. Several officers identified situations where they would not use a friend, family member, or bystander to interpret, such as during a domestic violence situation; if the situation involved a major crime; if an officer needed to take a statement from the LEP person; or if the situation was very sensitive and the family member was a child. Additionally, several officers and civilian employees told OCR that they try to communicate with LEP individuals using hand gestures or having the LEP person speak in broken English.

3. Interrogations and Arrests

When interrogating or arresting LEP persons, SDPD officials and officers stated that they rely on bilingual SDPD employees and Language Line to provide language assistance. In its data response, the SDPD stated that it provides officers with written Miranda Rights translated into numerous languages, and officers with whom OCR spoke reported carrying Miranda Rights translated into Spanish and reading these translated rights to Spanish-speaking arrestees. During the onsite visit, OCR obtained a copy of the SDPD’s arrest contact report; one section of this report asks whether an interpreter is required and, if yes, for what language.

4. Bookings and Detention

In its data response, the SDPD explained that once SDPD officers make an arrest, the SDPD detains arrestees who violate state law in facilities under the jurisdiction of the San Diego County Sheriff’s Department (Sheriff’s Department); the SDPD detains violators of federal law in a

³ Based on the information gathered during the onsite visit and OCR’s review of the SDPD’s website at www.sandiego.gov/police, OCR understands that the two multicultural storefront offices that SDPD referred to constitute the Multicultural Storefront Office located in the Mid City Division. The OCR further understands that the Multicultural Storefront Office services the City’s Laotian, Vietnamese, Cambodian, Hmong, and African communities.

facility run by the Federal Bureau of Prisons. During OCR's onsite visit of the jail operated by the Sheriff's Department, Sheriff's Department employees told OCR that SDPD officers conduct the initial booking of arrestees and then transfer custody to the Sheriff's Department. According to the Sheriff's Department employees, Spanish is the language spoken most frequently by LEP inmates. The Sheriff's Department employees stated that they use bilingual employees, other inmates, or friends and family members of LEP inmates, including minors, to provide language assistance. The employees also reported contacting the Sheriff's Department's Communications Center to obtain telephonic interpreting services.

While touring the jail, OCR observed several signs translated into Spanish, including signs listing rules and regulations, contact information for the Mexican consulate, and information on obtaining medical assistance. The Sheriff's Department employees told OCR that the Sheriff's Department has an inmate orientation video in English and Spanish.

5. Complaints

The SDPD provided OCR with its written complaint procedures; however, these procedures do not address the receipt of complaints from LEP individuals. See SDPD Procedure 1.10-12/20/2005. Briefly, members of the public can lodge a complaint against SDPD at any SDPD facility, at the City's Administration Building, at several community-based organizations, or with any member of the SDPD. Complaints may be in writing (by letter, fax, or email), in person, or by telephone. Upon receipt of a complaint, an authorized SDPD official completes a Complaint Control Form and forwards it to the SDPD Internal Affairs Unit. The Internal Affairs Unit sends the complainant an initial letter explaining the complaint process, a copy of the Complaint Control Form, and the California Penal Code 148.6 Admonishment Form; this form advises complainants that it is against the law to make a false complaint and requires complainants to sign and return the form to the SDPD.⁴ The Internal Affairs Unit then determines, based on SDPD Procedure 1.10, whether to investigate the complaint or refer it to the relevant command for investigation.

During the onsite visit, Internal Affairs Unit employees told OCR that the Internal Affairs Unit has Spanish-speaking officers to handle complaints from Spanish-speaking LEP persons, and that it locates a bilingual SDPD employee from a storefront office for other languages. The Internal Affairs Unit employees further stated that if they cannot locate an appropriate bilingual employee, they obtain language assistance from San Diego State University. Additionally, the

⁴Please note that the IACP National Law Enforcement Policy Center advises law enforcement agencies that it is not a good general practice to inform complainants of the penalties for filing a false complaint, as it creates a chilling effect on the filing of complaints and could be perceived as an attempt to intimidate potential complainants. Additionally, a law enforcement agency's failure to fully document all complaints from the public can create a perception that the agency is covering up some officer misconduct. See the Model Policy on Investigation of Employee Misconduct and its accompanying Concepts and Issues Paper, published by the IACP National Law Enforcement Policy Center (revised October 2001).

employees reported using family members or friends of a LEP complainant to interpret. In its data response, the SDPD provided OCR with copies of the initial letter sent to complainants and the California Penal Code 148.6 Admonishment Form that have been translated into Spanish and which are sent to Spanish-speaking complainants. The SDPD also provided a copy of the Complaint Control Form; this Form contains a space for the SDPD completing official to indicate whether the complainant requires an interpreter and in what language.

The SDPD stated in its data response that the SDPD Internal Affairs Unit employee who manages complaints does not recall receiving any complaints alleging ineffective communication with a LEP person during the past six years.

6. Community Outreach

The SDPD reaches out to LEP groups through the operation of a multicultural storefront office and through participation in community group meetings and events. In its data response, the SDPD stated that it operates a storefront office specifically to interact with the City's concentrated African, Laotian, Vietnamese, Cambodian, and Hmong communities, and that it staffs this facility with officers fluent in the language and culture of these communities. As previously discussed in this Compliance Review Report, OCR understands that this storefront office is the Multicultural Storefront Office located in the Mid City Division.

During the onsite visit, SDPD employees told OCR that officers staffing the Multicultural Storefront Office have attended meetings at local mosques, temples, synagogues, and churches to address issues affecting these communities, and have conducted recruiting at local fairs to attract employees from these LEP communities. The employees also said that the Multicultural Storefront Office operates two youth programs primarily geared toward children of refugees. The Mid City Division's page on the SDPD's website contains information on periodic multicultural community meetings that the SDPD holds with advisory boards and organizations representing LEP communities. These groups include the Hmong Advisory Board, Vietnamese Advisory Board, Lao Advisory Board, Cambodian Advisory Board, East African Advisory Board, San Diego Asian Youth Organization, and East African Youth Organization. The Mid City Division also posted a flyer announcing monthly Police Advisory Board Community meetings, where residents can gather and discuss concerns with the SDPD about issues in their neighborhood.

In addition to the activities of this multicultural storefront office, officers with whom OCR spoke reported attending other meetings and events with LEP communities. Several Spanish-speaking officers said they have given presentations to community groups in Spanish, including presentations on gang activity, narcotics, graffiti, and public safety issues. Officers also reported conducting meetings in Cambodian and Vietnamese on public safety issues. Based on OCR's onsite discussions with SDPD officials and officers, OCR understands that the SDPD may

provide interpreters at meetings with LEP communities, or community groups may provide their own interpreters.

SDPD officers with whom OCR spoke also reported working with ethnic media to discuss the SDPD's services and activities. One Spanish-speaking officer from SDPD's Internal Affairs Unit told OCR that he spoke on a Spanish radio station regarding the activities of this unit, and other officers said that they have appeared on Spanish and Vietnamese radio and television stations, including Saigon and Univision. Additionally, one officer said that the SDPD runs advertisements in a Filipino newspaper. During the onsite visit, the SDPD provided OCR with a tape of a public service announcement entitled "Undocumented Persons Policy" that the SDPD translated into Spanish, Vietnamese, Tagalog, and Arabic, along with Arabic, Somalian, and Vietnamese versions of a cassette tape on Family Harmony.

The OCR understands that the SDPD appoints officers to serve as liaisons with various ethnic groups; OCR spoke with one Spanish-speaking officer who serves as a liaison to migrant workers, many of whom are LEP. Additionally, the SDPD stated in its data response that that the SDPD Domestic Violence and Elder Abuse Units partner with the City Attorney, Children's Hospital, and other advocacy groups to run the San Diego Family Justice Center, an organization designed to prevent domestic violence, elder abuse, sexual abuse, and child abuse in San Diego communities.

In its data response, the SDPD identified several community organizations representing LEP individuals that the SDPD has worked with. The OCR had difficulty reaching many of these organizations; some of the telephone numbers were disconnected or rang repeatedly without being answered, and a number of the organizations did not return OCR's phone call. The OCR was able to speak with representatives of several of the listed organizations, and these individuals said that the SDPD is taking steps to reach out to LEP communities. All of the representatives with whom OCR spoke praised the SDPD's Multicultural Storefront Office, noting that the office provides a means for bilingual SDPD employees to interact with LEP communities and respond to the communities' needs. One representative told OCR that members of the LEP community that he represents attend meetings with the SDPD at the Multicultural Storefront Office, and another representative told OCR that the SDPD conducts community forums where interested community members can meet with the Chief of Police to discuss any concerns or issues.

7. General Language Services

To provide the foregoing public services to its LEP population, the SDPD offers both oral and written language assistance.

a. Oral Language Services

The SDPD officials and employees identified three ways in which the SDPD provides oral language assistance to LEP individuals: (1) through Language Line and Network Omni; (2) through bilingual SDPD employees; and (3) through friends or family members of LEP individuals or third-party bystanders.

As previously noted in this Compliance Review Report, the SDPD uses Language Line and Network Omni to respond to telephone calls from LEP persons, and SDPD employees may use these services during face-to-face encounters. While Language Line and Network Omni appear to be useful in responding to emergency and non-emergency calls, it seems that few employees other than the telephone dispatchers use this service.

For non-telephonic encounters with LEP persons, employees attempt to locate a bilingual employee for language assistance or utilize a friend, family member, or bystander on scene to interpret. The SDPD explained in its data response that it designates certain positions as bilingual positions, and that it fills all bilingual positions with individuals who have obtained certification from the City by passing a foreign language fluency examination. The SDPD further explained that this certification only means that the employee is fluent in the foreign language, and does not mean that the employee is a certified interpreter. The SDPD provided OCR with a list of approximately 506⁵ bilingual SDPD employees, out of approximately 2,725 SDPD employees, listing each employee's name, rank, language spoken, and certification date.⁶ Some of the employee listings do not contain a certification date; therefore, OCR understands that not all of the bilingual employees on this list have been certified as fluent by the City. According to this list, the approximately 506 bilingual SDPD employees speak a total of 28 foreign languages. The majority of employees (431) speak Spanish, and other spoken languages include Vietnamese, Laotian, Tagalog, Cambodian, and Thai. During OCR's onsite visit, OCR spoke with several officers who are not included on this list but said they sometimes provide language assistance services to LEP individuals.

The SDPD stated in its data response that since the City has a very diverse population, the SDPD seeks out individuals who are bilingual and encourages them to apply. As discussed previously in this Compliance Review Report, officers working at the Multicultural Storefront Office conduct recruiting in immigrant communities. The SDPD stated that while it makes officer assignments on a volunteer basis, officers with language skills often request to work with or are sought out by SDPD commands serving LEP populations.

⁵ Several of the 506 employees are listed more than once, as they speak more than one foreign language.

⁶ This list contains an additional 30 employees who are proficient in American Sign Language; as previously discussed in this Compliance Review Report, proficiency in American Sign Language is not encompassed by the OCR's review of services to LEP individuals.

In its data response, the SDPD explained that it provides additional compensation to bilingual SDPD employees serving in job assignments that require the ability to communicate in specified foreign languages on a continuing basis; OCR understands that SDPD is referring to the designated bilingual positions discussed above. For sworn officers, the foreign languages eligible for ongoing bilingual compensation are Spanish, Tagalog, Korean, Chinese, and Indochinese; for civilian employees, the eligible languages include the above-listed languages, plus Arabic and Farsi. City-certified bilingual employees in these job assignments receive an additional 70 cents per hour in pay; based on the documentation gathered during the onsite visit, OCR understands that sworn officers alternatively may receive an additional 3.5% of base pay. Additionally, if SDPD requests an officer or civilian to provide temporary language services in a language that is not eligible for ongoing bilingual compensation, SDPD pays the officer or civilian an additional 70 cents per hour for the entire pay period during which the employee provides assistance.

Regarding the use of family members, friends, and bystanders to interpret, as previously discussed in this Compliance Review Report, SDPD officials and officers report regularly using these individuals to interpret. Additionally, several officers reported using hand gestures to communicate with LEP persons or requiring LEP individuals to speak in broken English. One officer told OCR that language assistance services may not be necessary because often LEP persons “pretend they don’t speak English but really can get by.”

The SDPD does not have a written policy on providing oral language assistance to LEP persons, and almost all of the SDPD employees with whom OCR spoke said that the SDPD has not provided training on this issue. One employee did recall the SDPD instructing employees to contact the Communications Division to access language assistance services, and several employees recalled receiving cultural diversity training. Numerous employees told OCR that they learned on the job how to provide assistance to LEP individuals. In its data response, the SDPD provided documentation showing that recruit officers complete a 34-hour course on Basic Spanish for Law Enforcement, and the SDPD stated that it allows tenured officers to attend Spanish immersion courses if staffing permits. During OCR’s onsite visit, OCR obtained a guide that the SDPD prepared for employees on Southeast Asian and African cultures.

b. Written Language Services

In its data response, the SDPD stated that most of its informational items or application packets are printed only in English, and that it translates documents into other languages based on an ongoing request for information. The SDPD explained that materials relating to safety and crime prevention are available at its 20 storefront offices, Headquarters building, and nine decentralized area commands, and provided OCR with 18 safety and crime prevention materials that the SDPD has translated into languages other than English. These materials include the following: pamphlets on child abuse, elder abuse, personal protection, and a home security manual translated into Spanish; pamphlets on vehicle theft, child abuse, and curfew translated into

Somali; and documents on safety for the Southeast Asian elderly, when and how to call 911, residential robbery, tobacco and alcohol in the Southeast Asian family, sexual assault, personal safety for Southeast Asians, domestic violence, and home security, all translated into Hmong, Vietnamese, Cambodian, and Laotian. The SDPD also provided a document on bullying prevention translated into Spanish and Chinese, a document on child safety translated into Spanish, Tagalog, and Korean, and a pamphlet on preventing hate crime translated into Spanish, Hindi, Chinese, Armenian, and Arabic.

The SDPD also enclosed with its data response informational sheets on solicitor and peddler permits that have been translated into Spanish; however, the SDPD explained that all permit application forms are only in English to allow proper processing by SDPD and City personnel. Additionally, the SDPD enclosed eight documents translated into Spanish relating to family violence that are available at the San Diego Family Justice Center. During the onsite visit, OCR obtained the following additional materials that the SDPD has translated into Spanish: a document on how to obtain a police report, a child identification kit, child protection information, a sheet on what to do if your car is stolen in Mexico, a guide to domestic preparedness, a pamphlet on senior safety, two pamphlets on calling 911, and a community alert regarding a male suspect peeping into homes. As previously discussed in this Compliance Review Report, the SDPD has translated into Spanish the initial letter that is sent to citizen complainants and the California Penal Code 148.6 Admonishment Form. The SDPD said in its data response that it supplies officers with forms in numerous languages for the admonishment of Miranda Rights or obtaining consent to search vehicles or residences; however, OCR does not have copies of these forms in any foreign languages.

In its data response, the SDPD stated that it relies on City-certified bilingual SDPD employees to translate documents into foreign languages, and that many translated documents are obtained from the State Attorney General's Office. To ensure the accuracy of translated materials, the SDPD said that it relies on the skills of the City-certified employees, and that it assumes that documents obtained from government sources such as the State Attorney General's Office are accurate. The SDPD explained that it distributes translated materials at meetings or presentations, by giving the materials to community organizations to distribute, or by making materials available at SDPD facilities. The SDPD officers with whom OCR spoke also reported distributing translated documents at community fairs and events. The SDPD stated in its data response that when bilingual employees are interacting with LEP individuals, the employees might inform LEP persons of the availability of translated materials.

During OCR's onsite visit, OCR observed many of the above-referenced translated documents at the SDPD's Multicultural Storefront Office; however, OCR observed few translated documents at the other SDPD facilities that OCR toured. Based on OCR's interviews with SDPD patrol officers, it does not appear that many officers regularly carry translated materials with them to distribute in the field. Although some officers reported carrying translated information on

domestic violence, crime prevention, and home protection, several other officers said they do not carry any translated materials with them.

The SDPD website, www.sandiego.gov/police, is entirely in English.

Recommendation

While the SDPD is currently taking steps to provide services to LEP persons, such as employing bilingual individuals who have been certified as fluent by the City and translating some materials into frequently-encountered languages, the SDPD should build on these steps to provide more effective language assistance to LEP individuals. As an initial matter, the SDPD should establish a comprehensive written policy on providing services to LEP persons in a variety of contexts, including field and walk-in encounters, interrogations, arrests and bookings, complaint processing, and community outreach. In this policy, the SDPD should advise employees to obtain language assistance services from qualified bilingual employees or contract interpretation services, and that employees should use family members, friends, or bystanders to interpret only in unforeseen, emergency circumstances while awaiting a qualified interpreter.

Once the SDPD has developed this policy document, it should immediately train all employees on the policy to ensure that employees are aware of the proper procedures for providing language assistance services. Following this initial training, the SDPD should establish annual training sessions focused specifically on providing language assistance services to LEP individuals, and should include this issue in its new recruit training. As part of its employee training, the SDPD may wish to show the enclosed DVD *Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice*. Other law enforcement agencies have found this DVD particularly helpful in training employees on how to provide services effectively to LEP populations.

The SDPD is making an effort to ensure that its language assistance services are accurate and reliable by requiring that designated bilingual positions be filled with individuals certified by the City as being able to communicate fluently in a foreign language. However, the skill of communicating with another person in a foreign language is different from the skill of interpreting, which requires listening to something in one language and orally conveying its meaning into another language. Therefore, the SDPD should work with the City to expand the City's current testing process to specifically assess a bilingual employee's skill of interpreting in a foreign language. Alternatively, the SDPD may wish to develop and administer these tests on its own. This testing process does not need to involve a formal certification in interpretation. The testing process should also assess an employee's ability to translate written materials, which involves rendering written communication in one language into another language. The SDPD should maintain a list of all employees who have successfully completed the testing process, specifically noting whether the employee has the ability to interpret and/or translate in a

particular language. The SDPD should ensure that this list is constantly updated and distributed to all SDPD employees.

The SDPD is currently taking positive steps to recruit bilingual employees by providing additional compensation for certain language skills. The SDPD may wish to expand the languages that are eligible for ongoing bilingual pay to include other frequently-encountered languages such as Persian, Japanese, German, and French, and should add Arabic and Farsi to the list of eligible languages for sworn officers. The SDPD should continue to conduct recruitment activities with immigrant communities to increase the number of bilingual employees and further improve its services to LEP communities.

In regard to written materials, while the SDPD has taken steps to make various documents and resources available to frequently-encountered LEP populations, it should take additional steps to ensure compliance with Title VI. The Department of Justice encourages recipients to satisfy the “safe harbor” provision in the DOJ Guidance when determining what documents to translate. See DOJ Guidance, 67 Fed. Reg. 41464. This provision states that recipients should translate “vital documents” for LEP groups that comprise five percent or 1,000, whichever is less, of the eligible service population. Id. Whether a document is “vital” depends on the “importance of the program, information, encounter, or service involved, and consequence to the LEP person if the information in question is not provided accurately or in a timely manner.” Id. at 41463. Examples of documents that may be “vital” are consent and complaint forms; intake forms; written notices of rights; denial, loss, or decrease of benefits; notices of disciplinary actions; written tests for a license, skill, or job for which knowing English is not required; applications to participate in a program or activity; and applications to receive a benefit or service. Id.

In accordance with the DOJ Guidance, the SDPD should perform an inventory of all of its written materials, identify the documents it considers “vital,” and translate these documents into the languages that meet the safe harbor threshold. The SDPD should also implement quality control measures to ensure the accuracy of translated materials and to make sure that all of the information is being conveyed to LEP persons. As explained above, the ability of an individual to speak a foreign language does not necessarily mean that the individual has the skills to translate a document from English into the foreign language. The accuracy of translated materials could be ensured by having a second, independent translator, such as a bilingual officer, professor from a local university, or employee from a local government agency, to verify the work of the primary translator. The SDPD may also wish to use “back translation,” where the primary translator can translate the document, and a second, independent translator could translate it back into English to ensure that the appropriate meaning has been conveyed. Once the SDPD translates the “vital documents” and ensures their accuracy, it should then develop a strategy for distributing the materials to the relevant LEP communities.

The SDPD also should post a sign(s) in the primary languages of the largest LEP populations in the lobby of its police stations and other places of public contact stating that on request, free

language services are available. The SDPD should request that the Sheriff's Department post a similar sign in its detention facilities. The SDPD should make sure that important information available in English on its website is also available in the primary languages of the largest LEP populations.

The SDPD is currently taking steps to build relationships with LEP communities, such as maintaining a multicultural storefront office and regularly holding meetings with LEP community groups. To ensure that its community outreach efforts are effective, the SDPD should establish a mechanism for gathering community feedback on its provision of services to LEP individuals. For example, the SDPD may want to develop a written survey of community groups serving LEP populations, or to convene a focus group of LEP individuals. The SDPD should work with ethnic media outlets to publicize these meetings and to inform LEP persons of the availability of free language assistance services and other important resources.

D. Available Resources

The SDPD's fiscal year runs from July 1 through June 30. According to SDPD's data response and its Organizational Financial Status Department Summary Reports, its total operational expenditures in Fiscal Years 2004 and 2005 were \$281,910,282 and \$321,009,026, respectively. As previously discussed in this Compliance Review Report, bilingual SDPD employees serve as the SDPD's principal resource for communicating with LEP persons, and the SDPD provides additional compensation for bilingual employees providing ongoing or temporary language assistance services. The documentation provided by the SDPD indicates that the SDPD expended a total of \$994,150 on bilingual pay in Fiscal Year 2004 and \$1,110,881 on bilingual pay in Fiscal Year 2005. The SDPD attempts to attract bilingual officers by recruiting in immigrant communities, and the SDPD recruiting materials list bilingual pay as an employee benefit.

The SDPD also incurs expenses for the telephonic interpreter services provided by Language Line and Network Omni. The Organizational Financial Status Department Summary Reports show that the SDPD expended \$18,978.02 on Language Line services from August 5, 2004 to February 15, 2006. The SDPD did not provide OCR with any documentation showing expenditures made for services from Network Omni.

During the onsite visit, one officer told OCR that the San Diego Police Foundation, a non-profit organization that provides support for local law enforcement programs and activities, partially compensated her for attending a foreign language class. In its data response, the SDPD stated that it allows tenured officers to attend Spanish immersion classes during duty hours if staffing permits.

The SDPD stated that it obtains some translated material from outside sources, such as the California State Attorney General's Offices. During OCR's onsite visit, SDPD employees reported using San Diego State University for interpretation services.

Recommendation

The SDPD should undertake a review of its human and capital resources in assessing how well it is responding to the needs of its LEP populations. One part of this review should include gathering feedback from the local LEP service population on how the SDPD can provide more effective language assistance services. Some law enforcement agencies have developed community feedback surveys in the languages of its LEP service populations for this purpose, while others have convened focus groups with LEP populations. The SDPD should also work with community groups serving LEP populations to determine what additional steps it can take to attract more bilingual employees capable of providing language assistance services. The SDPD may also wish to consult with community groups to identify all of the community resources that are available to provide cost-effective and reliable language assistance services to the City's LEP populations. The SDPD should build upon its current efforts to recruit bilingual employees, particularly individuals who speak Vietnamese, Chinese, Tagalog, Korean, and Loatian.

II. Developing an Effective Plan on Language Assistance for LEP Persons

According to DOJ Guidance, an effective plan for providing language assistance to LEP persons has five elements: (1) identifying LEP individuals who need language assistance; (2) providing information on effective language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the plan.

Recommendation

The SDPD should develop a comprehensive, written language assistance plan that incorporates the five elements referenced above and addresses the concerns raised in this Compliance Review Report. In doing so, the SDPD may wish to consult the DOJ Guidance, along with the following documents: (1) Planning Tool for Creating a Language Assistance Policy and Plan in a Law Enforcement Agency; (2) Limited English Proficiency Resource Document: Tips and Tools from the Field; and (3) a sample written language assistance plan. These documents are available online at <http://www.lep.gov>, and should assist the SDPD in preparing a language assistance plan or a general order on services to LEP persons.

Conclusion

This letter serves as notice that OCR has made a preliminary determination that the SDPD appears to be taking steps to provide meaningful access to its programs and activities to LEP persons. However, the SDPD should build on these steps to ensure compliance with Title VI.

Chief William Landsdowne
January 8, 2008
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On request, the OCR is available to provide technical assistance in implementing its recommendations and formulating a written language assistance plan. **Immediately upon receipt of this letter, we ask that a responsible SDPD official contact Attorney Advisor Shelley Langguth to develop a timeline and goals for developing a written language assistance plan.**

Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact Ms. Langguth at (202) 305-2353.

Yours very truly,

/s/
Michael L. Alston
Director

Enclosure

cc: Captain Robert Kanaski
San Diego Police Department