



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

CERTIFIED-RETURN RECEIPT REQUESTED

June 11, 2008

Chief of Police John F. Timoney
Miami Police Department
400 N.W. 2nd Avenue
Miami, Florida 33128

Director Timothy P. Ryan
Miami-Dade County Corrections and Rehabilitation Department
2525 NW 62 Street
Miami, Florida 33147

Re: Compliance Review of the Miami Police Department and Detention Services of the Miami-Dade County Corrections and Rehabilitation Department (08-OCR-0027)

Dear Chief Timoney and Director Ryan:

I am writing to report the findings of the compliance review of language services at the Miami Police Department (MPD), conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice. Since the Miami-Dade County Corrections and Rehabilitation Department (MDCR) provides detention services for the MPD, OCR's compliance review also included language services at the MDCR detention centers. The OCR would like to thank MPD and MDCR staff, especially MPD Special Assistant to the Chief of Police Liz Babun-Matos, MDCR Deputy Director Marydell Guevara, MDCR Captain Daniel Mera, and MDCR Corporal Tyrone Hildred for assisting OCR attorney Shelley Langguth during her February 20-22, 2008, onsite visit.

In my letter of October 31, 2007, I wrote to inform Chief Timoney that OCR had selected the MPD 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. On December 6, 2007, I wrote to Director Ryan to inform him that as part of this review, OCR would be evaluating the detention services provided by the MDCR on behalf of the MPD. As I noted at that time, OCR limited the scope of the compliance review to the MPD's and MDCR's provision of services to people with limited English proficiency (LEP). A LEP

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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 MPD and MDCR are providing language services to LEP persons.

After a thorough evaluation of the MPD's and MDCR's services and activities, including the MPD's and MDCR's responses to OCR's data requests and the information OCR gathered during its onsite visit, which included interviews with department officials, command staff, sworn officers, and representatives from LEP communities, we sent you a draft report on May 8, 2008, in accordance with 28 C.F.R. ' ' 42.107(d)(2) and .206(e). In a June 9, 2008, email, Ms. Babun-Matos stated that MPD did not find any factual inaccuracies in the draft report. Similarly, in a letter dated June 2, 2008, Director Ryan said that the draft report is factually correct.

In regard to the MPD, with respect to the limited scope of our review, we conclude that MPD is taking steps to provide LEP persons with meaningful access to police services. However, the MPD should build on these steps and take further action to ensure that it is meeting its obligations under Title VI and the Safe Streets Act, beginning with developing a written language assistance plan for LEP persons. The following Compliance Review Report contains recommendations based on the DOJ Guidance that the MPD may find helpful in developing policies to improve its services to LEP individuals.

In regard to the MDCR, in accordance with the limited scope of our review, OCR also finds that the MDCR appears to be taking steps to provide LEP inmates and visitors with meaningful access to its detention services. However, the MDCR also needs to take further action to ensure that it is complying with Title VI and the Safe Streets Act, including expanding its current written language assistance plan. On pages 17-23 of this Compliance Review Report, OCR discusses the language services that MDCR currently provides within its detention facilities and makes recommendations for how the MDCR can improve its services to LEP persons.

Compliance Review Report

This Compliance Review Report closely tracks the DOJ Guidance: first assessing the MPD's obligation to provide LEP services and then reviewing the elements that MPD 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 MPD, OCR offers the following observations and recommendations.

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

The MPD provided OCR with a map demonstrating that it divides the City of Miami into three police districts: North, Central, and South. Based on recent data from the U.S. Census Bureau, in 2006, the City of Miami had an estimated population of 333,755 residents age five and older; of this group, 229,615 (69%) spoke Spanish, and more than half of this number (140,025) spoke English less than "very well," which OCR considers LEP. U.S. Census Bureau, American FactFinder, C16004. Age by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, 2006 American Community Survey at <http://factfinder.census.gov>. This data further indicates that 22,765 residents age five and older spoke other Indo-European languages, with 10,255 speaking English less than "very well;" 1,248 spoke Asian and Pacific Island languages, with 667 speaking English less than "very well;" and 744 spoke other languages, with 239 speaking English less than "very well." *Id.* Based on information gathered during OCR's onsite visit, OCR understands that Spanish and Creole are the most prevalent foreign languages or dialects spoken by residents and visitors of Miami; however, it is not clear which of the above-referenced U.S. Census Bureau language categories includes Creole.¹

In its data response, the MPD provided information gathered from the U.S. Census Bureau on the racial and ethnic demographics of each police district in 2000. This information demonstrates that in the North District, 12.65% of citizens were Hispanic (of any race), 17.08% were White, and 72.65% were Black; in the Central District, 53.74% were Hispanic (of any race), 45.24% were White, and 40.54% were Black; and in the South District, 82.90% were Hispanic (of any race), 85.78% were White, and 4.45% were Black. Other listed racial and ethnic groups

¹ During the onsite visit, MPD officials explained to OCR that some individuals consider Creole to be a dialect, rather than a separate language. Additional data from the U.S. Census Bureau indicates that in 2006, 229,615 residents age five years and over spoke "Spanish or Spanish Creole," and 18,388 residents spoke "French (including Patois, Creole, Cajun)." U.S. Census Bureau, American FactFinder, C16001. Language Spoken at Home for the Population 5 Years and Over, 2006 American Community Survey at <http://factfinder.census.gov>. Thus, it appears that Creole may fall under the Spanish or other Indo-European language category, depending on how the respondent characterized Creole.

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comprised less than 1.0% of each district's population. During the onsite visit, MPD officials told OCR that the majority of the City of Miami's Creole population resides in the North District, which includes the Little Haiti neighborhood.

Recommendation

The MPD should review the latest data from the U.S. 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 MPD also should track its LEP population to monitor population shifts.

B. Frequency of Contacts with LEP Persons

To respond to telephone calls from LEP persons, the MPD utilizes bilingual call takers in its Communications Section who speak Spanish or Creole; if a Spanish- or Creole-speaking call taker is not available or if the LEP caller speaks another language, the Communications Center contacts NetworkOmni Language Services, a private vendor that provides telephonic interpretation services. During OCR's onsite visit, MPD officials and employees said that MPD sworn and civilian employees also have the option of contacting the Communications Section to access NetworkOmni for language assistance; however, it appears that very few employees have ever done so.

The MPD officials explained that NetworkOmni provides MPD with monthly reports upon request, listing each time MPD contacted NetworkOmni that month and noting the language requested, the length of the call, and the charge for the call. According to the NetworkOmni reports covering the period of January 1 to December 31, 2006, the MPD used NetworkOmni 3,858 times. Of these calls, 89.2% involved a request for a Spanish interpreter and 9.7% involved a request for a Creole interpreter; the other requested languages, including Portuguese, Russian, Arabic, Hindi, Hebrew, German, Vietnamese, Polish, Cantonese, Mandarin, French, Korean, Greek, Punjabi, and Crioula Cape Verde, each represented less than 1% of total calls. Aside from the data obtained from NetworkOmni, MPD does not otherwise collect information on contacts with LEP individuals.

While the NetworkOmni reports provide some helpful information, NetworkOmni data underestimates significantly the MPD's frequency of contact with LEP individuals. This data only captures the situations when the MPD used NetworkOmni; it does not capture most field encounters and walk-ins where another type of language assistance is utilized, or the telephone calls with LEP persons when the MPD did not contact NetworkOmni. As noted above, the Communications Section employs Spanish- and Creole-speaking call takers to interact with

Spanish- and Creole-speaking LEP callers. And while Communications Center command staff told OCR that a call taker may note on the dispatch report if a caller is LEP, it does not appear that MPD tracks this information.

Recommendation

The MPD should establish reliable systems for gathering information on contacts with its LEP service population, starting with automatically receiving monthly reports from NetworkOmni. Supplementing the reports of NetworkOmni, the MPD should establish procedures for recording and gathering data on all emergency and non-emergency calls from LEP persons that did not involve NetworkOmni, including information on the nature of the call, the language requested, and the length of time a bilingual call taker spent with the LEP caller. The MPD should also develop procedures for recording and gathering data on all face-to-face contacts with LEP persons, such as by modifying its existing reporting forms or by creating a new form. However the MPD chooses to track information on its contacts with LEP persons, it should be sure to include information on the language spoken by the LEP person and the MPD's response to the need for language assistance. The MPD should then tabulate all of the 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 MPD's Communications Section services the emergency/911 and non-emergency telephone lines of the MPD, and receives incoming emergency calls for the City's Fire Department.² Based on the MPD's data response, Communications Section Standard Operating Procedures No. 11, and on information gathered during the onsite visit, OCR understands that the Communications Section employs two screeners to answer all incoming 911 calls, and that unless the call involves an imminent threat to the caller's health or safety, the screener transfers the call to an appropriate call taker.³ Communications Section command staff told OCR that the MPD tries to have one English-speaking and one Spanish-speaking screener at all times. If the caller is LEP and speaks Spanish or Creole, the screener presses a button to transfer the call to a Spanish- or Creole-speaking call taker; for other languages, the screener presses a button to connect to NetworkOmni. In its data response, the MPD noted that the Communications Section employs 30 Spanish-speaking and 10 Creole-speaking employees.

All incoming non-emergency calls are initially answered by a pre-recorded message which advises the caller that they have reached the MPD and, in the appropriate language, tells callers

² During the onsite visit, Communications Section command staff told OCR that 311 calls are handled by Miami-Dade County.

³ If the 911 call is for Fire Department services, the screener will transfer the call to a Fire Department call taker.

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to press 1 for English, 2 for Spanish, and 3 for Creole. Based on the information gathered during the onsite visit, OCR understands that the Spanish- and Creole-speaking callers are then routed to a Spanish- or Creole-speaking call taker.

If there is a need to dispatch an officer to the scene, a call taker will forward a dispatch report to a Communications Section dispatcher; Communications Section command staff told OCR that call takers may note on this report if the caller is LEP, and that the dispatcher will try to send an appropriate bilingual officer to the scene.

2. Field Encounters and Walk-Ins

Other than the Communications Section Standard Operating Procedures No. 11 and written instructions for Communications Section call takers on how to access NetworkOmni, the MPD does not have any written policies regarding the provision of language assistance to LEP persons. According to the MPD's data response, if MPD officers need an interpreter during field encounters, they first attempt to raise a nearby police unit with the appropriate language skills to assist in person. If a unit is not available, officers contact the Communications Center to speak to a Spanish- or Creole- speaking call taker; if neither of these options is appropriate, the officer has the Communications Center access NetworkOmni. If a LEP individual walks into one of the three district stations requesting assistance, the MPD said that employees at the front desk are usually able to communicate in Spanish or Creole, depending on the demographics of the district. If the employee at the front desk cannot communicate with the LEP individual, the employee requests the assistance of an employee in the building who speaks the appropriate language, raises a bilingual patrol unit in the field, or contacts the Communications Section for assistance.

During the onsite visit, MPD officers and command staff told OCR that each district station maintains a "P-Sheet" for each shift, listing all of the officers from that station who are on-duty and including information on any special skills of that officer, such as whether the officer speaks a foreign language. Communications Section command staff said that they keep a master P-Sheet for each shift, listing all of the on-duty officers throughout the MPD. The MPD officers and civilians with whom OCR spoke said that they generally know which officers speak a foreign language, and that they can also consult the P-Sheet to determine if any on-duty officers speak a needed language. The employees told OCR that if they are aware of a particular officer who speaks a needed language, the employees can call that officer directly or can contact the Communications Section dispatchers to raise that officer over the radio. The employees said that if they are unaware of any particular officers who speak the needed language, they will contact the Communications Section to transmit a radio request that any officer who speaks that language respond to the scene. Many of the employees with whom OCR spoke said that they have not encountered any foreign languages other than Spanish or Creole, although a few employees said that they have encountered a German-speaking individual and one employee said

that he has encountered a Russian-speaking individual. Only two officers reported using NetworkOmni for language assistance in the field.

Regarding the use of family members, friends, or bystanders to interpret, almost every officer or civilian whom OCR interviewed reported using these individuals to interpret when gathering basic or general information, but said that they would contact a bilingual employee to obtain more detailed information. Many employees said that they try not to use children to interpret, especially if the situation is a criminal matter or involves a family dispute, and several employees said that they would never use a child to interpret. The employees with whom OCR spoke identified several situations where they would not use a friend, family member, or bystander to interpret, such as when the friend, family member, or bystander was a party to a dispute, or if the situation involved a homicide, domestic violence, or a sensitive issue such as sexual assault.

3. Interviews and Interrogations

In the MPD's data response, it said that the Criminal Investigations Division (CID) and Field Operations Division (FOD) employ detectives who speak both Spanish and Creole, and that these bilingual detectives can communicate with Spanish- and Creole-speaking suspects, witnesses, or victims during interviews and interrogations. The MPD stated that if an appropriate bilingual detective is not available, the detectives follow the same procedures discussed above to obtain assistance from a bilingual officer, a bilingual Communications Section employee, or NetworkOmni. Command staff from CID said that of the approximately 100 detectives in CID, roughly 60 speak Spanish and eight speak Creole. Command staff reported that for other languages, CID detectives would contact the Communications Section for assistance, and that several years ago CID relied on a German-speaking MPD employee to interpret for a German-speaking interviewee.

The MPD stated in its data response that it has Miranda Warnings translated into English, Spanish, French, and Creole, and provided OCR with copies of these translated forms. During the onsite visit, MPD command staff said that translated warnings are located in interview rooms at MPD facilities and that officers carry the translated warnings with them into the field; based on information gathered subsequent to the onsite visit, OCR understands that the Miranda Warnings translated into French are only available in the Traffic Homicide Unit, FOD. During OCR's onsite visit, several officers reported carrying Miranda Warnings translated into Spanish and Creole in the field or being aware that translated warnings are available at the district stations, and CID command staff said that CID detectives use Miranda Warnings translated into Spanish and Creole.

4. Arrests

The MPD explained in its data response that if MPD officers are arresting a LEP individual, as with field encounters and interviews and interrogations, officers first attempt to locate a nearby bilingual police unit to assist in person. If a unit is not available, officers contact the Communications Center to speak to a Spanish- or Creole- speaking call taker; if neither of these options is feasible, the officer has the Communications Center access NetworkOmni. As discussed above, the MPD utilizes Miranda Warnings translated into Spanish, Creole, and French when interrogating or arresting Spanish-, Creole-, or French-speaking individuals.

As discussed in Section I.C.8 of this Compliance Review Report, once a MPD officer arrests an individual, the officer transports the arrestee to the MDCR for booking and detention; MPD does not book or detain individuals at any of its facilities.

5. Complaints

The MPD provided OCR with its policies and procedures relating to the processing of complaints; these policies do not address the receipt of complaints from LEP individuals. See Internal Affairs Division Departmental Order 2, Chapters 1 and 2; Internal Affairs Division Standard Operating Procedures No. 5. In its data response and during the onsite visit, MPD explained that members of the public can complain of alleged police misconduct by letter, over the telephone, or in person, and that complaints may be made directly to the MPD's Internal Affairs Division (IAD) or to any MPD supervisor. The MPD further explained that the public may also submit complaints to the Civilian Investigative Panel (CIP), which is a public organization independent of the MPD that evaluates the evidence and makes recommendations to the City Manager and Chief of Police. The MPD stated that all complaints, including the complaints submitted to CIP, are forwarded to the IAD for classification and investigation. During the onsite visit, MPD officials told OCR that IAD may request that a MPD supervisor investigate certain types of allegations, such as allegations of discourtesy and harassment; however, IAD makes the final decision on all complaints.

The MPD officials said that if a member of the public complains directly to IAD, IAD will have the complainant complete an IAD Citizen Complaint Against Police Employee Form, which is written in English, Spanish, and Creole. If a member of the public complains directly to a MPD supervisor or submits a complaint through a letter or email, the supervisor will complete an internal form documenting the complaint and will forward the form to IAD. The MPD also provided OCR with copies of a CIP complaint form translated into Spanish and Creole that is available at CIP, along with IAD and CIP complaint brochures translated into Spanish and Creole that are available at MPD or CIP.

During the onsite visit, IAD command staff told OCR that approximately 80% of IAD employees speak Spanish and can assist Spanish-speaking complainants, and that IAD also has a Creole-speaking employee. In its data response, MPD said that if a complainant speaks another foreign language, IAD will contact a bilingual police unit to assist or can contact NetworkOmni via the Communications Section. The IAD command staff told OCR that letters sent by IAD to complainants are only in English, but that bilingual IAD employees or other interpreters can notify LEP complainants over the phone of the status or outcome of a complaint investigation. If a LEP complainant files a complaint with CIP, MPD said in its data response that CIP has a Spanish-speaking employee on staff and can contact another City office for interpretation in other languages.

In its data response, the MPD reported that during the period of July 1, 2005 to November 28, 2007, it received one complaint alleging ineffective communication with a LEP individual. Specifically, the Spanish-speaking complainant alleged that when a MPD officer responded to a traffic accident that the complainant was involved in, the officer refused to speak to the complainant in Spanish, although the officer spoke to the other party in Spanish. The complainant further alleged that the officer was rude, and did not let the complainant present his side of the story. During the onsite visit, IAD command staff explained that IAD found this complaint to be inconclusive, based on the fact that there were not any independent witnesses.

6. Community Outreach

The MPD reaches out to LEP populations by holding frequent meetings in Spanish and Creole to address a variety of law enforcement topics. During the onsite visit, MPD officials explained that most of the community meetings are coordinated by MPD's Community Relations Section (CRS). Based on the information contained in MPD's data response and gathered during OCR's onsite visit, OCR understands that there are twelve Neighborhood Enforcement Team (NET) areas, served by thirteen NET offices⁴ that provide a variety of municipal services to City residents and business owners, including police services, licenses and permits, and public works. The MPD assigns two Neighborhood Resource Officers to each area, appointing Spanish- or Creole-speaking officers to serve as the NROs for Spanish- or Creole-speaking areas, such as Little Haiti, Wynwood, Little Havana, and Allapatah. The Neighborhood Resource Officers conduct meetings with residents and merchants within their NET areas on issues such as crime prevention, gangs, auto theft, home safety, and domestic violence. During the onsite interviews, OCR spoke with one Spanish-speaking Neighborhood Resource Officer and one Creole-speaking Neighborhood Resource Officer who reported conducting meetings with neighborhood and business associations in Spanish and Creole, respectively.

⁴ According to the City of Miami's NET website, www.miamigov.com/NETS, the Coconut Grove neighborhood has two NET offices.

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The CRS employs five civilian Crime Prevention Specialists who report to the Neighborhood Resource Officers and are also assigned to the NET areas; three of the Crime Prevention Specialists speak Spanish and one speaks Creole. Each of the Crime Prevention Specialists conducts several crime watch meetings every month to address community concerns and present public safety information. The Crime Prevention Specialists also attend regular meetings with various community and faith-based organizations and homeowners' and business associations, such as Weed and Seed-related committees and the Liberty Square Community Center. Depending on the needs of the meeting attendees, bilingual Crime Prevention Specialists may address attendees in Spanish or Creole.

In addition, the MPD employs bilingual staff in several specialized units who interact with the community in Spanish and Creole. The CRS has a Crime Against the Elderly Office that works with senior living facilities and has two Spanish-speaking employees and one Creole-speaking employee, along with a Police Athletic League that works with elementary schools and has one Spanish-speaking officer and one Creole-speaking officer. The CRS also employs two Spanish-speaking and one Creole-speaking School Resource Officers who are assigned to high schools. Additionally, in MPD's data response, it said that detectives from CID conduct meetings in English, Spanish, and Creole on topics such as gang prevention, robbery, sexual battery, and domestic violence. During OCR's onsite visit, MPD officials stated that if a MPD employee conducts a meeting in English and an attendee needs an interpreter, MPD will provide one.

Based on MPD's data response, OCR understands that Creole-speaking officers from CRS appear on various radio programs, such as a crime awareness program on Radio Mega and a program on WOCN. Additionally, a Spanish-speaking Victim's Advocate from CID appears on a radio show on Union Radio. During the onsite visit, MPD officials told OCR that MPD's Public Information Office uses Spanish and Creole television and radio stations to relay public safety information to Spanish- and Creole-speaking communities. The MPD officials also said that they work with Spanish and Creole radio stations and newspapers to recruit bilingual officers. In addition to these outreach activities, command staff from the Central District told OCR that CRS periodically conducts special events for the community in the lobby of the Central District Station, such as event honoring Hispanic Heritage Week featuring Hispanic food and entertainment.

During OCR's discussions with community representatives, one representative praised the outreach conducted by MPD's Neighborhood Resource Officer in the Little Havana area, including presentations and educational workshops held in Spanish on topics such as gang prevention, domestic violence, and pedestrian safety. The community representative noted that written materials distributed during these presentations and workshops were translated into Spanish. The representative also recalled hearing Spanish-speaking MPD officers appear on the radio.

7. General Language Services

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

a. Oral Language Services

The MPD officials, patrol officers and civilian employees identified three ways in which the MPD provides oral language assistance to LEP individuals: (1) through NetworkOmni; (2) through bilingual MPD employees; and (3) through friends or family members of LEP individuals or third-party bystanders.

As previously noted in this Compliance Review Report, the MPD uses NetworkOmni to respond to telephone calls from LEP persons, and may also use this service during face-to-face encounters. While NetworkOmni appears to be useful to the Communications Section in responding to emergency and non-emergency calls for service, it appears that few other MPD employees use this service; during onsite interviews, only two officers reported using NetworkOmni for language assistance.

For non-telephonic encounters with LEP persons, MPD officers and civilian employees initially attempt to obtain language assistance from a bilingual employee with the appropriate language skills. The employees with whom OCR spoke said that they generally know which employees speak a foreign language, and that they can also consult the P-Sheet at their district station or can contact the Communications Section to raise an appropriate bilingual employee. The bilingual employees whom OCR interviewed said that they self-reported their language ability on their employment application; it is OCR's understanding that the officers who are listed as bilingual on the P-Sheets are the officers who reported a language ability on their application.

Other than the P-Sheets, MPD has not compiled a roster of its bilingual employees. In responding to OCR's data request, MPD estimated the number the employees who speak Spanish or Creole, based on Hispanic ethnicity, Haitian/French surnames, date of hire, and generation. Out of the 1,437 MPD employees as of November 20, 2007, the MPD estimated that 735 employees speak Spanish and 79 speak Creole. The MPD did not provide information on any other languages spoken by MPD employees; during the onsite visit, MPD officials and patrol officers noted that MPD also has employees who speak German, Portuguese, and French. The MPD command staff from the district stations also told OCR that most of the MPD employees in the Central and South Districts speak Spanish, and that the majority of MPD's Creole-speaking employees work in the North District.

During the onsite visit, MPD officials told OCR that the City of Miami tests the language proficiency of bilingual Communications Operators⁵ by having certified interpreters assess their ability to communicate in a foreign language; otherwise, the City or the MPD does not test the language competency of bilingual employees. In its data response, the MPD estimated that approximately 98% of its Creole- and Spanish-speaking employees are proficient, based on the employees' dates and places of birth, dates of hire, and on MPD's knowledge of the employees' language skills.

The MPD does not provide additional compensation for language skills. In its data response, the MPD said that many job postings indicate that Spanish or Creole language skills are desirable, and that the MPD may take language skills into account when making job assignments, such as positions with public contact. During the onsite visit, MPD officials said that applicants with Spanish or Creole language skills receive preference for the Communications Operator positions, but that patrol officers with language skills do not receive any preference. Command staff from the district stations told OCR that they try to ensure that front desk employees speak Spanish or Creole, depending on the demographics of the district. The bilingual employees with whom OCR spoke reported that they provide language assistance throughout the MPD, and not just within their district. The officers told OCR that providing language assistance does not interfere with their regular duty assignments.

Regarding the use of family members, friends, and bystanders to interpret, as explained in the section on field encounters and walk-ins, MPD employees reported using these individuals to gather general information, but said that they would contact a bilingual employee for more detailed or sensitive information. The majority of officers said that they try not to use children to interpret.

As noted previously in this Compliance Review Report, the MPD does not have a written policy for providing oral language assistance to LEP persons, other than instructions it provides to the Communications Section on how to access Network Omni. In its data response, the MPD said that it provides training to Communications Section employee on how to access Network Omni, and it provided OCR with copies of memoranda and written instructions that are given to Communications Section employees on how to access Network Omni. As for other sworn and civilian MPD employees, it does not appear that MPD has a formal training program for providing language assistance to LEP individuals; the MPD said that it is a "general practice known by all" for employees to contact the Communications Section for language assistance. During OCR's onsite interviews, several officers recalled receiving instructions to contact the Communications Section for language assistance, either in academy classes or field officer training. One commanding officer told OCR that officers receive instructions on communicating

⁵ The OCR understands that "Communications Operators" are the Communications Section screeners and call takers discussed in Section I.C.1 of this Compliance Review Report.

with LEP individuals during roll call training, and one patrol officer confirmed this during OCR's interviews.

b. Written Language Services

In its data response, the MPD stated that it translates certain documents into languages other than English based on the needs of the community and the nature of the information; MPD explained that information of crucial importance or relating to public safety is published in English, Spanish, and Creole as a matter of common practice. The MPD said that it relies on a select group of Spanish- and Creole-speaking MPD employees known for their strong language skills to translate these documents. The MPD also said that it may contact a professional translating company if financially feasible; the MPD provided OCR with an invoice from a professional translator, The Cakov Group Language Solutions, Inc., which donated its services on one occasion to translate a brochure into Creole. The MPD further stated that some outside agencies such as the Citizens' Crime Watch or Miami-Dade County may provide MPD with prepared written materials.

The MPD's data response contained 24 written materials that have been translated into Spanish, Creole, and/or French; 23 of these documents are available in Spanish, 12 of these documents are available in Creole, and one of the documents is available in French. As discussed in Section I.C.5 of this Compliance Review Report, the MPD has complaint investigation forms and brochures translated into Spanish and Creole, and has Miranda Warnings translated into Spanish, Creole, and French. The remaining translated documents include pamphlets that address a variety of public safety topics, such as victims' rights (Spanish and Creole), domestic violence (Spanish), sexual assault (Spanish), terrorism (Spanish and Creole), human trafficking (Spanish), missing children (Spanish), pedestrian safety (Spanish and Creole), crime prevention (Spanish), identity theft (Spanish), home protection (Spanish), and a gun bounty program (Spanish and Creole). Additionally, these translated documents include a Florida Immigrant Advocacy Center Application for Legal Services (Spanish and Creole), several flyers requesting information on a crime (Spanish or Creole), and a card used by patrol officers to inform a citizen that the officer stopped by their house (Spanish and Creole).

The MPD said that these translated materials are available at the district stations and IAD, and are distributed by officers in the field and at community meetings. Several officers with whom OCR spoke reported carrying translated materials with them in the field and at meetings. During the onsite visit, OCR observed several of the above-referenced translated pamphlets at one or more of the district stations, such as the pamphlets on the complaint investigation process, domestic violence, victims' rights, pedestrian safety, and terrorism. Additionally, OCR visited the Community Relations Service Office at the Central District/Headquarters building, and found additional pamphlets in Spanish on sexual abstinence, traffic tickets, credit counseling, and debt management. The OCR also visited the NET office that is located within the North District

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Station, and observed numerous materials translated into Spanish and/or Creole on issues relating to police or other City services, such as a pamphlet in Spanish on child pedestrian safety.

The MPD also posts signage translated into Spanish and/or Creole at its district stations and IAD. In the MPD's data response, it provided copies of the following translated signage: 1) North District – a gun bounty program poster (Spanish and Creole), a sign instructing the public to take brochures (Spanish and Creole), and an AARP poster (Spanish); 2) Central District – a sign instructing visitors that identification must be shown (Spanish and Creole), a sign containing the hours of the records unit (Spanish), signs regarding the Automated External Defibrillator machines (Spanish and Creole), and a sign instructing the public that only authorized persons are allowed (Spanish and Creole); 3) South District – signs by the parking lot warning police personnel only (Spanish), and a gun awareness poster (Spanish); and 4) Internal Affairs Division – police officer commendation/complaint posters (Spanish and Creole). Additionally, during the onsite visit, OCR observed a sign in Spanish at the Central District Station instructing visitors that they need a visitor's pass; an IAD poster in Creole at the North District Station; and an IAD poster in Spanish at the South District Station.

The MPD's website, www.miamipolice.com, is entirely in English.

Recommendations for MPD

The MPD clearly recognizes the need to communicate with the City of Miami's large Spanish- and Creole-speaking populations, and has taken active steps to serve these communities by employing a large number of Spanish-speaking officers and some Creole-speaking officers, along with translating important forms and informational documents into Spanish and Creole. However, the MPD should build on these steps to provide even more effective language assistance to LEP individuals. As an initial matter, the MPD should establish a comprehensive, written plan on providing services to LEP persons in a variety of contexts, including field and walk-in encounters, interviews and interrogations, arrests, complaint processing, and community outreach. In these protocols, the MPD should advise employees to obtain language assistance services from qualified bilingual employees, NetworkOmni, or other identified resources, and that employees should use family members, friends, or bystanders to interpret only in unforeseen, emergency circumstances while awaiting a qualified interpreter.

Once the MPD has established and formalized its written plan, it should immediately train all employees on the plan to ensure that all employees are aware of the proper procedures for providing language assistance services. Following this initial training, the MPD should establish annual training sessions focused specifically on providing language assistance services to LEP individuals. As part of its training program, the MPD may wish to show the enclosed training 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 MPD has stated its belief that the vast majority of its Spanish- and Creole-speaking employees are proficient. However, to ensure the accuracy of interpretation and translation services provided by bilingual employees, the MPD should implement an objective testing process for assessing the language skills of all of its bilingual employees, not just the bilingual Communications Operators. These tests should go beyond testing an employee's skill of communicating in a foreign language and should assess the particular skill of interpreting, which requires listening to something in one language and orally conveying its meaning into another language. A bilingual employee may have the skills to converse with another person in a foreign language but may not have skills to provide competent interpretation in that language, and therefore it is essential for law enforcement agencies to ensure that the bilingual employees providing language assistance are competent in the specific skill of interpretation. Similarly, the MPD should test its bilingual employees' written translation skills, which involves rendering written communication in one language into the writing of another language. An objective testing process does not need to involve a formal certification process. For example, the MPD could test employees' interpretation skills through oral review panels comprised of officers, language professors from local colleges or universities, and community group members who are competent to interpret, and could assess written translation skills through written tests developed by these individuals.

To ensure that MPD employees are aware of which officers are competent to provide effective interpretation or translation, the MPD should note on its P-Sheets which officers have demonstrated this competency through MPD's testing process. The MPD may also wish to maintain a master list of all bilingual employees who have demonstrated proficiency in a foreign language; this list should include the contact information for each employee, what language the employee speaks, and whether the employee has the ability to interpret or translate. The MPD should ensure that this list is constantly updated and distributed to all MPD employees.

While the MPD employs a very large number of Spanish-speaking employees, the MPD's Creole-speaking employees currently comprise only 5.5% of MPD's workforce; to provide more effective services to the City of Miami's large Creole-speaking population, the MPD should increase its efforts to recruit Creole-speaking employees. The MPD should also take action to recruit officers who speak other foreign languages, such as German, Portuguese, and French. The MPD may wish to consider providing additional compensation to officers who demonstrate proficiency in a foreign language, as well as paying for officers to attend foreign language classes in languages that the MPD frequently encounters.

In regard to written materials, the MPD has already translated numerous documents into Spanish and Creole; however, it may need to take further action to ensure compliance with Title VI. The

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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 MPD 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. Based on the 2006 Census data and information obtained during OCR’s onsite visit, it appears that the Spanish- and Creole-speaking LEP populations of the City of Miami clearly meet the 1,000 person safe harbor threshold. Although the data is less clear for other language groups, their presence may also meet the safe harbor threshold. The MPD should take steps to translate all of its vital documents into the languages that meet this threshold, such as all correspondence with complainants and any documents relating to a citizen’s rights or the provision of consent. The MPD 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. 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 an officer, a professor from a local university, or a community member who has demonstrated competency in translation, to verify the work of the primary translator. The MPD 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.

The MPD appears to have effective strategies in place to distribute translated documents to the public; it should continue to make translated documents available at MPD facilities and should actively encourage officers and other employees to distribute translated documents in the field and at community meetings. The MPD also should post a sign(s) in the primary languages of the largest LEP populations in the lobbies of its police stations and other places of public contact stating that on request, free language services are available. Additionally, the MPD should take steps to make sure that important information available in English on its website is also available in Spanish and Creole.

Regarding community outreach, the MPD is taking very active steps to meet with and build positive relationships with the Spanish- and Creole-speaking LEP communities. To ensure that its outreach efforts are effective, the MPD should establish a mechanism for gathering community feedback on its provision of services to LEP individuals. For example, the MPD may want to develop a written survey of community groups serving LEP populations, or to convene a focus group of LEP individuals. The MPD may also consider holding separate meetings with each LEP community, perhaps in collaboration with community, business, and religious leaders representing the LEP population, so that the MPD can hear the LEP community's unique needs regarding outreach. The MPD should continue to work with ethnic media outlets to relay public safety information to the public, and should use these outlets to publicize community meetings and to inform LEP persons of the availability of free language assistance services and other important resources.

8. Detention Services Provided by MDCR

As noted previously in this Compliance Review Report, the MDCR provides detention services for individuals arrested by the MPD. The MDCR serves all of Miami-Dade County, which includes 32 police departments and over 2.25 million residents. Individuals detained at MDCR are awaiting trial or are serving sentences of less than 365 days; during the onsite visit, MDCR command staff told OCR that inmates are detained for an average of 22 days, with many inmates detained for less than 24 hours.

The MDCR operates six detention facilities, along with a Hospital Services Unit at Jackson Memorial Hospital. The OCR understands that when an inmate arrives at MDCR, the inmate is booked at the appropriate detention facility and goes through the intake and committing process, which includes an initial medical and mental health screening by Corrections Health Services (CHS) personnel. See D.S.O.P 18-006. During OCR's onsite visit, MDCR command staff explained that CHS personnel are Miami-Dade County employees from Jackson Memorial Hospital and are responsible for providing medical services to MDCR inmates at the Hospital Services Unit and other MDCR detention facilities. Following intake, MDCR places the inmate in a short-term holding area until MDCR can determine the appropriate classification and placement of the inmate. See D.S.O.P. 18-006; D.S.O.P 19-005.

As of December 25, 2007, the MDCR had 6,521 inmates in its detention facilities. In its data response, the MDCR provided OCR with a breakdown of its LEP inmates as of December 25, 2007; this data indicates that 1,261 (19.3%) of the LEP inmates spoke Spanish, 197 inmates (3.0%) spoke Creole, 11 inmates (0.2%) spoke French, one inmate (0.0%) spoke Russian, one inmate (0.0%) spoke Chinese, and one inmate (0.0%) spoke an African language. During OCR's onsite visit, MDCR command staff explained that MDCR conducted written and oral surveys of its inmates to obtain this information.

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At the time of MDCR's data response, MDCR did not have a comprehensive policy document explaining how to provide language assistance to LEP inmates, and did not track when it provided language assistance. In MDCR's data response, it explained that it contracts with the professional vendors Linguistica International (primary vendor) and Carmazzi of Florida, Inc. (secondary vendor) to provide interpretation for LEP inmates or visitors. These vendors provide interpretation in 30 different languages and their associated dialects; during the onsite visit, MDCR command staff explained that interpretation may be over the telephone or in person. However, MDCR provided OCR with documentation showing that at the time of MDCR's data response in January 2008, it had never used either of these vendors for interpretation.

The MDCR also said in its data response that it may use bilingual employees to provide language assistance to LEP individuals. During OCR's onsite visit, MDCR command staff and correctional officers confirmed that prior to OCR's Compliance Review, MDCR solely relied on bilingual MDCR or CHS employees to provide language assistance services to LEP inmates or visitors. The MDCR provided OCR with a list of 398 MDCR employees, out of approximately 2,620 employees, who speak one or more foreign languages; this list indicates that 322 MDCR employees speak Spanish, 44 speak Creole, 12 speak French, two speak IBO-African, and there is one employee listed for each of the languages of Italian, Greek, Erdu, EFIK-African, EDO-African, and Nigerian. The MDCR does not conduct any testing of its employees' language skills. During the onsite visit, MDCR command staff explained that MDCR compiled this list for the purpose of its data response, and that employees generally know which MDCR employees are bilingual and will contact them directly for language assistance. The MDCR command staff further explained that LEP inmates may sometimes ask a bilingual visitor or other inmate to relay information to MDCR staff. In its data response, MDCR said that it does not provide any formal training for staff on how to provide language assistance services to LEP individuals.

Since the time of MDCR's data response, it has issued LEP policies governing its Pre-Trial Detention Center (S.O.P. P08-210, effective February 14, 2008) and Metro West Detention Center (S.O.P. M08-062, effective February 15, 2008). Based on these policies and on information gathered from MDCR's command staff during OCR's onsite visit, OCR understands that MDCR now intends to rely primarily on the above-referenced professional vendors to communicate with LEP inmates and visitors. On the day of OCR's onsite visit, MDCR command staff told OCR that MDCR had contacted one of the vendors the previous day to provide telephonic interpretation for a Russian-speaking inmate. According to S.O.P P08-210, once a Pre-Trial Detention Center employee identifies an inmate as LEP, the employee should notify the Shift Commander; the Shift Commander will then log the inmate's name and spoken language into a LEP Translation Log and will approve a phone call to one of the vendors. The policy further states that MDCR has ordered a stamp stating "LEP" and containing a line to specify an inmate's language that employees can use to stamp an inmate's jail card, Inmate Profile System folder, and inmate classification card. During the onsite visit, MDCR command staff informed OCR that this stamp will be used throughout the MDCR facilities.

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The S.O.P M08-062 governing Metro West Detention Center is somewhat similar to S.O.P. M08-210, and instructs employees to notify the Shift Commander and the CHS Charge Nurse when any LEP inmate arrives at the facility. The policy further states that during the course of the inmate's incarceration, staff should notify the Shift Commander when attempts to communicate with the inmate are unsuccessful and pose a health or safety risk to the inmate, and that the Shift Commander will determine whether to contact one of the vendors for interpretation. The Shift Commander is required to notify the Facility Supervisor of a need to contact a vendor, and should log this contact on the Translation Services Contract Log and in an incident report. Both S.O.P. P08-210 and M08-062 provide the telephone numbers for the interpretation vendors. Neither of these policies discusses when or if MDCR employees should use bilingual employees to provide language assistance services; during the onsite visit, MDCR command staff told OCR that MDCR will try to limit its use bilingual employees but may still use them for day-to-day communications.

As noted previously, CHS provides medical services for inmates at the Hospital Services Unit and within the medical clinics at other MDCR detention facilities. During the onsite visit, CHS employees told OCR that they have bilingual doctors and nurses at the MDCR facilities who are utilized to communicate with LEP inmates, and that CHS maintains a list of these bilingual employees at each service area. The CHS employees also told OCR that CHS has a contract with Language Line, a telephonic interpretation provider, for language assistance as necessary. While touring the Hospital Services Unit and the medical clinics at the Pre-Trial Detention Center and the Women's Detention Center, OCR observed written instructions posted for CHS staff on how to access Language Line.

Subsequent to OCR's onsite visit, MDCR provided OCR with a CHS written policy addressing requests for interpreter services (CHS Policy and Procedures Manual 200.101, approved January 8, 2008). This policy states that when providing medical services to LEP inmates, CHS employees should obtain language assistance from bilingual CHS employees or from Language Line, and should notify the Facility Shift Commander when interpretation is provided. The MDCR also provided OCR with the following CHS inmate forms that CHS recently translated into Spanish and Creole: an Authorization for Treatment form; an Authorization for Release of Confidential Medical Records; a Refusal of Treatment form; an Inmate Request for Health Services form; and an informational sheet regarding Tuberculosis tests. The MDCR explained that CHS utilized a professional vendor, Rio de la Plata Language, to translate these forms.

During an inmate's period of detention, MDCR offers various educational programs, work skills programs, and support groups at its facilities; in its data response, MDCR noted that adult basic education and GED programs are available in Spanish, and that religious services are available in Spanish and in Creole upon request. During OCR's onsite visit, MDCR command staff said that these educational classes are taught by Spanish-speaking teachers provided by the local school

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board, and that bilingual volunteers from faith-based community organizations conduct the religious services in Spanish and Creole.

In regard to complaints alleging employee misconduct, MDCR's data response contained copies of written policies documenting the procedures for complaint investigations, and MDCR command staff provided additional information and clarification during OCR's onsite visit. See D.S.O.P 6-022, Personnel Complaints; D.S.O.P 6-038, Investigations and Disposition Panel Process. In brief, inmates or members of the public can complain about officer misconduct in person, over the phone, or in writing, and complaints are forwarded to and investigated by the Professional Compliance Division. The MDCR has a Complainant or Civilian Witness Statement form that complainants may complete, although it is not required for an investigation; MDCR provided OCR with copies of this form translated into Spanish and Creole. During the onsite visit, command staff from the Professional Compliance Division told OCR that the Division has Spanish- and Creole-speaking employees to communicate with LEP complainants, and that presently all correspondence sent to complainants is in English. Subsequent to the onsite visit, MDCR provided OCR with a brochure outlining the complaint investigation process translated into Spanish and Creole that is available in the public lobbies of its facilities.

If an inmate wishes to file a grievance regarding a departmental policy or procedure, the inmate must complete an Inmate Action/Remedy form and an Inmate Grievance form; the inmate grievance procedure is outlined in the Inmate Handbook, which is available in English, Spanish, and Creole. Currently, all of the forms relating to the inmate grievance process are only in English.

According to MDCR's data response, MDCR translates documents into foreign languages if they are commonly used documents or are essential to ensure safety, security, and humane treatment. In its data response and during the onsite visit, MDCR stated that it has contracts with the vendors Allworld Language Consultants, Inc. (primary vendor) and Accurate Communication and Transportation (secondary vendor) for certified translation services. Additionally, MDCR noted that translation services are also available from certified translators employed by Miami-Dade County's Government Information Center, and that bilingual MDCR employees may translate basic materials into other languages.

In addition to the forms previously referenced in this section, MDCR provided OCR with several other documents translated into Spanish and Creole that are available to inmates and members of the public. These documents include instructions for inmates and friends on how to receive refunds from Correctional Billing Services, a brochure on MDCR Boot Camp, a pamphlet on sexual assault awareness, a flyer listing the visiting hours of MDCR facilities, and a facility tour consent and waiver form. As previously mentioned, the Inmate Handbook is available in Spanish and Creole; this Handbook provides information for inmates and the public on topics such as intake, MDCR rules and regulations, complaint and grievance investigations, visitation,

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medical services, and inmate discipline. The MDCR also recently developed a Point Book to facilitate communication with LEP inmates and visitors; this book contains photographs with translations relating to issues such as legal, medical, hygiene, dietary, and clothing needs where the LEP person can point to the relevant need.

The MDCR said in its data response that translated materials are available in the public access areas within each detention facility; during OCR's onsite visit, OCR observed the instructions regarding Correctional Billing Services at the two detention facilities (the Pre-Trial Detention Facility and the Women's Detention Facility) that OCR toured, and observed the flyer regarding visiting hours at the Women's Detention Facility. Additionally, at the Women's Detention Facility OCR observed a terrorism awareness guide translated into Spanish, and a pamphlet in Spanish and Creole regarding advance payment for telephone calls to inmates.

As for signage viewed by inmates or members of the public, MDCR's data response contains copies of translated signs posted in public access and inmate housing areas. This signage includes a sign warning individuals that they are subject to search (Spanish and Creole); a notice for inmates regarding acceptable clothing (Spanish and Creole); signs regarding reporting sexual abuse (Spanish and Creole); a sign regarding the Victim Information and Notification Service (Spanish); and a sign listing symptoms of potential suicide (Spanish). The OCR observed several of these translated signs when OCR toured the Women's Facility, Pre-Trial Detention Facility, and Hospital Services Unit. Additionally, OCR observed signs in Spanish and/or Creole in the intake or public access areas relating to terrorism prevention, visiting rules, inmate property, assistance for victims' of crime, and the monitoring of telephone calls. The OCR also observed signs in Spanish and Creole notifying the public that the inmate handbook is available in those languages. The MDCR command staff told OCR that information regarding reporting sexual assault and how to place a phone call is posted in Spanish and Creole in every cell, and provided OCR with translated copies of these materials.

Subsequent to OCR's onsite visit, MDCR provided OCR with a list of numerous documents that it plans to have one of the professional vendors translate into Spanish and Creole. The identified documents include the forms relating to the inmate grievance process (Inmate Action/Remedy Request form, Inmate Grievance Form, Inmate Grievance Appeal), the Inmate Classification Appeal form, the Inmate Disciplinary Report, and the Inmate Rights at Disciplinary Hearing. The MDCR also intends to produce in Spanish and Creole an orientation video for the public conveying relevant information about MDCR. Additionally, the MDCR identified numerous signs throughout its facilities targeted at inmates or the public that it intends to translate into Spanish and Creole.

The MDCR's website, www.miamidade.gov/corrections, is only in English.

During OCR's discussions with representatives of community groups serving LEP populations, one representative expressed concern that MDCR does not have enough bilingual employees to

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communicate with LEP inmates and visitors. For example, the representative said that several Spanish-speaking visitors have attempted to obtain information from MDCR either in person or over the phone, but that MDCR employees did not speak Spanish and did not attempt to locate an interpreter.

Recommendations for MDCR

As an initial matter, OCR would like to recognize and commend MDCR for the actions it has already taken to improve its services to LEP individuals since the initiation of OCR's review. The MDCR is taking steps to provide services to LEP persons residing in or visiting its detention facilities, such as employing bilingual employees, making a commitment to utilize available telephonic interpreters, and translating important documents and signs into Spanish and Creole. However, the MDCR should build upon these steps to provide more effective language assistance to LEP individuals. The MDCR provided OCR with written language assistance plans that it recently developed for two of its facilities; OCR recommends that MDCR build upon these initial plans and develop a more detailed, comprehensive document that covers all of its facilities and programs. This document should begin by identifying the LEP populations that visit or are detained in MDCR facilities; should instruct MDCR employees on how to provide language assistance services in a variety of situations, such as intake, during the period of detention, and when members of the public are visiting or contacting MDCR facilities; should clearly instruct employees when it is appropriate to obtain services from qualified bilingual employees and when it is appropriate to contact a telephonic interpretation vendor; and should include a section addressing how MDCR will train employees on its policies and procedures. The plan should instruct employees to use other inmates or visitors of LEP inmates to interpret only in unforeseen, emergency circumstances while awaiting a qualified interpreter. Additionally, MDCR should recommend to CHS that it expand upon CHS' existing LEP policy document to incorporate these suggestions.

For helpful tips on developing an effective language assistance plan, the MDCR should review the Planning Tool for Creating a Language Assistance Policy and Plan in a Department of Corrections, found at www.lep.gov/LEP_Corrections_Planning_Tools.htm. See *supra* Part II, p. 24, for further tips on developing a language assistance plan. Once the MDCR has established and formalized its language assistance plan, it should immediately train all employees on the proper procedures for providing language assistance. Following this initial training, the MDCR should conduct annual training sessions focused specifically on providing language assistance services to LEP persons. As part of its employee training, the MDCR may wish to show the enclosed DVD *Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice*.

To ensure the accuracy of interpretation services provided by bilingual employees, the MDCR should implement an objective testing process for assessing employee language skills. Because

the skill of communicating with another person in a foreign language is different from the skill of interpreting, which requires listening to speech in one language and orally conveying its meaning into another language, relying on employees' self-identification of bilingual competency is not the best method of assessing the ability to interpret. An objective testing process does not need to involve a formal certification process. For example, the MDCR could test employees' interpretation skills through oral review panels comprised of correctional officers, language professors from local colleges or universities, and community group members who are competent to interpret. To increase the number of bilingual employees who are available to provide interpretation services, the MDCR should take active steps to recruit bilingual individuals, particularly those who speak Spanish or Creole, and may wish to consider providing additional compensation to employees who demonstrate proficiency in a foreign language.

The MDCR has recently taken steps to make numerous documents and signs available in Spanish and Creole, and has identified numerous additional documents and signs for translation. However, MDCR should conduct further analysis to determine what further action may be required 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 supra Part I.C.7, pp.15-16, for an explanation of the safe harbor provision. In accordance with the DOJ Guidance, MDCR should carefully evaluate all of its written materials including the materials it has already identified for translation to ensure that all "vital" documents are translated into the languages that meet the safe harbor threshold. The MDCR's continued use of the professional translation services is a good way to ensure the accuracy of translated materials. The MDCR should also develop a strategy for distributing its translated materials to inmates and the public, as appropriate.

To ensure that both inmates and visitors are aware of the availability of free language services, the MDCR should post signs in its detention centers stating that on request, free language services are available. At a minimum, these signs should be in Spanish and Creole. The MDCR should also make sure that important information available in English on its website is also available in these other languages.

D. Available Resources

The MPD's fiscal year is from October 1 to September 30. According to the MPD's data response, its total operational budget in Fiscal Year 2007 was \$10,291,744, and its E911 Fund was \$1,588,600. During the onsite visit, MPD officials explained that the E911 Fund contains funding from the State of Florida and is separate from MPD's general operating budget, and that in addition to language assistance expenses it also includes salary, equipment, and other expenses. The MPD officials said that the MPD budgeted \$70,000 for NetworkOmni expenses in Fiscal Year 2008, but that it does not anticipate spending that much.

Along with NetworkOmni, MPD bilingual employees serve as the MPD=s principal resource for communicating with LEP persons. As OCR discussed in Section I.C.6 of this Compliance Review Report, the MPD works with Spanish and Creole radio stations and newspapers to recruit Spanish- and Creole- speaking officers. The MPD currently does not provide bilingual employees with any additional compensation or benefits for providing language assistance services. The MPD noted that outside agencies such as the Citizens' Crime Watch or Miami-Dade County provide MPD with translated materials, and said that on one occasion a professional translating company translated a document for MPD, at no cost.

Recommendation

The MPD 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 MPD can provide more effective language assistance services, as discussed on page 16 of this Compliance Review Report. The MPD should also work with community groups serving LEP populations to determine what additional steps it can take to attract more bilingual employees capable of interpreting and translating, particularly in Creole, German, and French. To this end, the MPD should also consider providing incentive pay or bonuses for MPD employees who interpret or translate along with paying for officers to attend foreign language classes in the most frequently-encountered languages. The MPD may also utilize 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.

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 MPD 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 MPD 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 MPD in preparing a language assistance plan or a general order on services to LEP persons. The OCR also suggests that the MPD name one

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person on staff to be responsible for coordinating services to LEP persons. This person's first task might be to review this report and OCR's recommendations to develop a formal language assistance plan that will become familiar to every employee at MPD.

Conclusion

This letter serves as notice that OCR has made a preliminary determination that the MPD appears to be taking steps to provide meaningful access to its programs and activities to LEP persons. However, the MPD should build on these steps to ensure compliance with Title VI. This letter also serves as notice that OCR has made a preliminary determination that the MDCR is taking steps to provide meaningful access to its detention services to LEP individuals. However, the MDCR should also take further action to ensure compliance with Title VI.

On request, the OCR is available to provide technical assistance to MPD and MDCR in implementing its recommendations and formulating a written language assistance plan.

Immediately upon receipt of this letter, we ask that MPD and MDCR each have a responsible agency official contact Attorney Advisor Shelley Langguth to develop a timeline and goals for developing a written language assistance plan for your agency.

Thank you both 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