



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

CERTIFIED-RETURN RECEIPT REQUESTED

Washington, D.C. 20531

August 15, 2013

Chief of Police Darryl Forté
Kansas City Police Department
1125 Locust Street
Kansas City, MO 64106

Re: Compliance Review of the Kansas City Police Department
Docket No. 12-OCR-0273

Dear Chief Forté:

I am writing to report the findings of the compliance review of language services at the Kansas City, Missouri, Police Department (KCPD), conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ). The OCR would like to thank KCPD staff, especially Operations Analyst Mark Russo, for assisting OCR attorney Shelley Langguth during her September 20-21, 2012, onsite visit.

In my letter to you dated July 3, 2012, I informed you that the OCR had selected the KCPD 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, the OCR limited the scope of the compliance review to the KCPD's provision of services to people with limited English proficiency (LEP). An 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 DOJ 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, the OCR initiated this compliance review to determine the extent to which the KCPD is providing language services to LEP persons.

After a thorough evaluation of the KCPD's services and activities, including the KCPD's responses to the OCR's data request and the information the OCR gathered during its review, which included interviews with department officials, command staff, patrol officers, and representatives of community organizations serving LEP populations, the OCR sent the KCPD a draft Compliance Review Report on June 6, 2013, in accordance with 28 C.F.R. §§ 42.107(d)(2) and .206(e). In response to the draft Compliance Review Report, the KCPD sent the OCR a

letter dated July 30, 2013, providing clarification regarding the Youth Services Unit and the Spanish Immersion Program and expressing concern regarding an unverified and potentially inaccurate description of an event. In response to the KCPD's comments, the OCR revised our discussion of these issues on pages 11 and 14 of this Compliance Review Report.

In regard to the limited scope of our review, we conclude that the KCPD is not fully in compliance with the requirements of Title VI and the Safe Streets Act, although it is taking steps to provide LEP persons with meaningful access to police services. The KCPD should build on these steps and take further action consistent with the recommendations contained herein to ensure that it is meeting its obligations under Title VI and the Safe Streets Act.

Compliance Review Report

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

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

The KCPD has jurisdiction to provide law enforcement services throughout Kansas City, Missouri. The KCPD divides its service jurisdiction into the following five patrol divisions: Central Patrol Division, Metro Patrol Division, East Patrol Division, North Patrol Division, South Patrol Division, and Shoal Creek Patrol Division; each patrol division provides services to the public through a division station. Based on recent data from the U.S. Census Bureau, from 2009 to 2011, Kansas City had an estimated population of 425,750 residents age five and older; of this group, 373,344 spoke English only, and 52,406 (12%) spoke a language other than English. U.S. Census Bureau, American FactFinder, 2009-2011 American Community Survey 3-Year Estimates, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, Kansas City, Missouri at <http://factfinder.census.gov>. Of the 425,750 residents age five and older, 30,687 (7%) spoke Spanish, with 14,209 speaking English less than "very well," which the OCR considers LEP. *Id.* This data further indicates that 3,707 residents age

five and older spoke Vietnamese, with 2,064 speaking English less than “very well;” 3,092 spoke African languages, with 1,179 speaking English less than “very well;” 1,965 spoke Arabic, with 842 speaking English less than “very well;” 1,269 spoke Chinese, with 588 speaking English less than “very well;” and 1,142 spoke Tagalog, with 452 speaking English less than “very well.” *Id.*

In the KCPD’s August 23, 2012, Response to the OCR’s Data Request (Data Response), the KCPD provided data on the number of individuals within each patrol division who spoke selected foreign languages, including the number of such individuals who spoke English less than “very well;” during the OCR’s onsite visit of the KCPD, KCPD command staff indicated that the data was from the 2010 Census. This data indicates that 14,901 individuals residing in the East Patrol Division spoke Spanish or Spanish Creole, with 9,190 of these individuals speaking English less than “very well;” 4,271 individuals residing in the Central Patrol Division spoke Spanish or Spanish Creole, with 2,036 speaking English less than “very well;” 2,801 individuals residing in the South Patrol Division spoke Spanish or Spanish Creole, with 1,218 speaking English less than “very well;” 2,777 residents of the North Patrol Division spoke Spanish or Spanish Creole, with 1,201 speaking English less than “very well;” 2,739 residents of the Shoal Creek Patrol Division spoke Spanish or Spanish Creole, with 1,175 speaking English less than “very well;” and 2,374 residents of the Metro Patrol Division spoke Spanish or Spanish Creole, with 638 speaking English less than “very well.” The number of residents in each patrol division speaking other foreign languages was much lower. During the OCR’s onsite visit, KCPD command staff and officers confirmed that the most prevalent foreign language that the KCPD encounters is Spanish, and that the majority of the city’s Spanish-speaking population resides in the East and Central Patrol Divisions. The KCPD command staff, officers, and civilian employees told the OCR that they have also encountered individuals who spoke other foreign languages such as Vietnamese, French, Somali, Arabic, Croatian, Russian, and Korean.

Recommendation

The KCPD should review the latest data from the U.S. Census Bureau to determine more accurately the language assistance needs of its service population. In addition to U.S. Census Bureau data, many law enforcement agencies have 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 KCPD 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 KCPD’s Communications Unit partially relies on Language Line Services (Language Line), a private vendor that provides telephonic interpretation in over 150 languages. During the OCR’s onsite visit, KCPD command staff and employees said that KCPD officers and civilian employees also have the option of utilizing Language Line from the field or KCPD facilities.

During the OCR's onsite visit, KCPD command staff explained that the KCPD has two separate Language Line accounts: one account to track calls that the Communications Unit call takers place to Language Line, and another account to track calls that officers or civilian employees place to Language Line from the field or KCPD facilities. As for calls placed by Communications Unit call takers, the command staff indicated that Language Line sends billing invoices to the Mid-America Regional Council¹, which pays for this service, and that the KCPD obtains copies of these invoices upon request. In its Data Response, the KCPD provided the OCR with an accounting of the calls that the Communications Unit call takers placed to Language Line during the period of January 1, 2010 through July 18, 2012. This summary demonstrates that the Communications Unit call takers contacted Language Line on 5,300 occasions during this timeframe; of these calls, 4,871 (92%) involved interpretation in Spanish, and the remaining calls involved interpretation in a variety of languages including Somali (75 calls), Vietnamese (75 calls), Arabic (73 calls), Swahili (47 calls), Mandarin (32 calls), Burmese (21 calls), Russian (19 calls), Korean (17 calls), and French (13 calls). As for calls made by non-Communications Unit employees, the KCPD command staff told the OCR that Language Line provides billing invoices to the KCPD's Fiscal Division as necessary; the OCR understands that the Fiscal Division did not have any billing invoices from Language Line to provide to the OCR. Aside from the data obtained from Language Line, the KCPD does not otherwise collect information on contacts with LEP individuals.

While the Language Line invoices provide some helpful information, this data understates the KCPD's frequency of contact with LEP individuals. The data only captures the situations when the KCPD used Language Line to communicate with an LEP individual; it does not capture field encounters, walk-ins, and interviews and interrogations where another type of language assistance was utilized, or the telephone calls with LEP persons when the KCPD did not contact Language Line but rather relied on the services of a bilingual call taker. While employees from the Communications Center told the OCR that a call taker notes in the narrative section of the Computer Aided Dispatch system if a caller is LEP, it does not appear that the KCPD tracks this information. Similarly, while several of the officers with whom the OCR spoke said that they note on an incident report or in their daily activity log when an individual is LEP and required an interpreter, the KCPD does not track this information.

Recommendation

The KCPD should establish reliable systems for gathering information on contacts with its LEP service population. As an initial matter, the KCPD should request copies of Language Line invoices from the Mid-America Regional Council on a periodic basis so that the KCPD may track the calls originating from the Communications Unit. The KCPD should also maintain the invoices that it receives directly from Language Line to track the calls originating from KCPD

¹ Based on its website at <http://marc.org>, the OCR understands that the Mid-America Regional Council is a nonprofit association of city and county governments and is the metropolitan planning organization for the Kansas City region, including the management of the regional 911 system.

officers and civilian employees. Supplementing the invoices from Language Line, the KCPD should establish procedures for recording and gathering data on all emergency and non-emergency calls from LEP persons that did not involve the use of Language Line, including information on the nature of the call and the language requested. The KCPD 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 to ensure that all forms contain a separate field where officers shall note if an individual is LEP, the language spoken, and how the KCPD provided language assistance. The KCPD 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 KCPD's Communications Unit receives all incoming 911 calls for police, fire, and emergency medical services within Kansas City, and also receives all non-emergency calls for KCPD services. According to the Communications Unit command staff, if the Communications Unit receives a 911 call for fire or emergency medical services, it immediately transfers the call to a call taker with the Kansas City Fire Department. As of the time of the OCR's onsite visit, the Communications Unit employed approximately 40 call takers and 42 dispatchers; according to the command staff, dispatchers also serve as call takers as needed. The Communications Unit command staff and employees with whom the OCR spoke indicated that when a call taker receives a call from an LEP caller, the call taker first determines if a bilingual Communications Unit employee who is proficient in the needed language is available; if an appropriate bilingual call taker or dispatcher is not available, the call taker contacts Language Line for language assistance using a transfer button. In the KCPD's Data Response, it provided the OCR with a list of bilingual employees who receive bilingual skill pay; this list indicates that as of August 23, 2012, four employees within the Communications Unit received bilingual skill pay for speaking Japanese, Thai, Somali, and Vietnamese. Additionally, at the time of the OCR's onsite visit, the command staff stated that the Communications Unit was employing one Spanish-speaking call taker who had not yet had her language skills assessed but has served as an interpreter in emergency situations.

According to the Communications Unit employees, a call taker will note that a caller is LEP in the report that is forwarded to a dispatcher, and the dispatcher will attempt to dispatch a bilingual officer.

2. Field Encounters and Walk-Ins

In its Data Response, the KCPD provided the OCR with the KCPD Procedural Instruction No. 06-8, *Contact with Foreign Nationals* (effective Aug. 8, 2006), which contains an Annex E entitled *Language Interpreting Services*. Annex E indicates that interpreting services are

available for members who encounter communication difficulties with individuals who speak a foreign language, and that members should first attempt to locate an on-duty member to translate² before an interpreter service is used. Annex E states that Language Line may be used if an on-duty member is unavailable, and lists the telephone number for Language Line and the KCPD's account number. According to Annex E, to ensure accurate translation³ of information during an arrest, officers shall attempt to contact Language Line on either a three-way telephone or conference call. Annex E further states that if an on-duty member or Language Line cannot meet the needs for interpreting, upon consideration of the seriousness of the situation, members may contact the vendor Interpreters, Inc. to respond to the officer's location and to translate documents. Annex E lists the telephone number for Interpreters, Inc. and directs members to obtain supervisory approval before contacting an interpreting service other than Language Line, and instructs members to forward an Interdepartment Communication Form 191 P.D. to the KCPD's Financial Services Unit detailing the service used, the date, time, length of the call, and the associated case report number.

During the OCR's onsite interviews, the officers with whom the OCR spoke said that if they encounter an LEP person in the field, they obtain language assistance from a bilingual officer, Language Line, or a friend or family member of the LEP individual. The officers told the OCR that if they are aware of a particular officer who speaks the needed language, they contact that officer directly either over the radio or on the telephone; otherwise, the officers utilize the radio to request assistance from an officer who speaks the language or to request that the Communications Unit locate an appropriate bilingual officer. During the OCR's interviews with the Communications Unit command staff and employees, they told the OCR that the Communications Unit supervisors have a list of bilingual employees whose language skills have been assessed and are receiving bilingual skill pay, and that generally only those employees will respond to requests for a bilingual officer; if no officer responds to a request over the radio for a bilingual officer, the Communications Unit will contact an appropriate bilingual officer from this list. However, during the OCR's onsite interviews of patrol officers, one Spanish-speaking officer indicated that he did not pass the language skills assessment necessary to receive bilingual skill pay but that he does communicate directly in Spanish with LEP individuals and provides interpretation in Spanish.

All of the officers with whom the OCR spoke reported using Language Line to communicate with LEP individuals in the field, and indicated that they contacted Language Line directly from their own cell phone or from a telephone on the scene. In regard to the use of family members, friends, or bystanders to interpret, almost all of the officers with whom the OCR spoke reported using family members, including children, or friends or bystanders to interpret. The officers identified several situations where they would not use a friend, family member, or bystander to

² Please be advised that the word "translate" refers to the translation of written documents, while the word "interpret" refers to the provision of oral language services.

³ Please see footnote 2.

interpret, including situations involving domestic violence; if the friend, family member, or bystander was involved in the matter; or if there was a need to keep the situation confidential. The commanding officers from the Central Patrol Division and the East Patrol Division with whom the OCR spoke also indicated that their officers have relied upon bilingual employees from local community organizations such as the Mattie Rhodes Center, the Don Bosco Senior Center, and the Guadalupe Center, to provide interpretation. Several of the officers told the OCR that when they encounter an LEP individual they will note in the narrative section of an incident report that the individual is LEP and who provided language assistance services.

According to the officers and civilian employees interviewed by the OCR, if an LEP individual walks into the Headquarters building or a division station or calls a KCPD facility for assistance, the KCPD will communicate by locating a bilingual officer at the facility, contacting Language Line, contacting the Communications Unit to air a request for a bilingual officer, or relying upon a friend or family member of the LEP individual.

3. Interviews and Interrogations

As discussed above, Annex E of the Procedural Instruction No. 06-8 instructs KCPD members to first attempt to locate a bilingual member to provide language assistance, and if a bilingual member is not available, to contact Language Line; if Language Line is not sufficient and depending on the seriousness of the situation, members then have the option of contacting Interpreters, Inc. According to command staff from the KCPD's Violent Crimes Division⁴, Narcotics & Vice Division⁵, and Special Operations Division⁶, detectives from these divisions have conducted interviews or interrogations of LEP victims or suspects by utilizing bilingual detectives or officers within the division, by contacting the Communications Unit to find a bilingual employee from another KCPD division, or by contacting Language Line. Based on the list of bilingual employees included in the KCPD's Data Response, at the time of the KCPD's Data Response, four employees within the Narcotics & Vice Division spoke Spanish and received bilingual skill pay, two employees within the Violent Crimes Division spoke Spanish and received bilingual skill pay, and within the Special Operations Division one employee spoke French, one spoke Italian, and one spoke Spanish and received bilingual skill pay. None of the command staff referenced using Interpreters, Inc. for interpretation, and one of the command staff indicated that Language Line has provided interpretation over the phone and in person. During the OCR's interview of Communications Unit command staff, the Communications Unit

⁴ The Violent Crimes Division is comprised of the Homicide Unit and the Robbery-Special Victims Unit, which each contain specialized sections and squads.

⁵ The Narcotics & Vice Division is comprised of the Drug Enforcement Unit and the Street Crimes Unit, which each contain specialized squads, along with the HIDTA/Investigative Support Center.

⁶ The Special Operations Division includes the Traffic Enforcement Unit, the Traffic Investigations Unit, and the Patrol Support Unit, which are comprised of specialized sections.

stated that detectives will often contact the Communications Unit to specifically request a bilingual officer whose language skills have been assessed and is receiving bilingual skill pay. Based on the KCPD's Data Response and information provided by the Violent Crimes Division command staff, the OCR understands that detectives with the Violent Crimes Division have used bilingual employees from the Mattie Rhodes Center, from the Rose Brooks domestic violence shelter, and from local hospitals to conduct initial interviews at the scene.

As will be discussed in Section I.C.7.b of this Compliance Review Report, the KCPD has a Miranda Waiver form available in English and Spanish.

4. Arrests and Detention

According to the officers and detectives with whom the OCR spoke, when arresting an LEP individual, KCPD officers and detectives obtain language assistance services from a bilingual KCPD employee or from Language Line. Once the KCPD arrests an individual, the individual may be temporarily detained at the KCPD; according to the KCPD's Data Response, the KCPD serves as a temporary holding facility and detains individuals for twenty-four to forty-eight hours. During the OCR's onsite visit, command staff from the KCPD's Detention Unit explained that there is a detention facility located at Headquarters and side detention facilities located at the patrol division stations, but that the side detention facilities are used infrequently due to staffing shortages. The command staff said that the KCPD generally detains individuals between thirty-six and forty-eight hours, up until their video arraignment hearing,⁷ following the hearing the KCPD either releases the individual or transports him or her to the Jackson County Detention Center operated by Jackson County, Missouri.

In its Data Response, the KCPD provided the OCR with Department Memorandum No. 05-06, *Bonding/Implementation of Corrections Management System (CMS)* (effective March 4, 2005), and Department Memorandum No. 05-13, *Booking/Implementation of Corrections Management Systems (CMS)* (effective June 14, 2005); neither of these documents discusses how to communicate with LEP inmates. The Detention Unit command staff told the OCR that the foreign language that the unit most frequently encounters is Spanish, and that the Detention Unit staff communicates with LEP inmates by contacting the Communications Unit to locate a bilingual officer to provide interpretation in person or over the phone or by using other inmates to interpret. The command staff said that the Detention Unit previously employed individuals who spoke Spanish, but that it does not currently have any bilingual employees. According to the command staff, detention officers rely upon inmates to provide interpretation for basic information and when the matter is not sensitive. The command staff also said that bilingual employees from the U.S. Immigration and Customs Enforcement (ICE) have provided interpretation when ICE has picked up an inmate from the Detention Unit.

⁷ The command staff explained that inmates remain at the Detention Unit during the video arraignment hearing.

The command staff provided the OCR with a physical health screening form that is available in English and in Spanish for inmates to complete. According to the command staff, if an inmate completes the physical health screening form in Spanish, the booking officer will note this in the inmate's booking record. It does not appear that the Detention Unit otherwise notes if an inmate is LEP and requires language assistance services. The command staff also indicated that the telephones used by inmates contain verbal directions in both English and Spanish. The command staff told the OCR that the Detention Unit does not notify the court prior to the video arraignment hearing if an inmate is LEP, and that it is up to the court to provide an interpreter during the hearing.

5. Complaints

The KCPD provided the OCR with KCPD Procedural Instruction No. 04-09, *Community Complaint Policy and Procedure* (effective December 21, 2004), which sets forth the guidelines for processing complaints against the KCPD; this procedure does not address the processing of complaints from LEP individuals. As discussed above, Annex E of the Procedural Instruction No. 06-8 instructs KCPD members who encounter communication difficulties to first attempt to locate a bilingual member to provide language assistance, and if a bilingual member is not available, to contact Language Line; if Language Line is not sufficient and depending on the seriousness of the situation, members then have the option of contacting Interpreters, Inc.

Based on Procedural Instruction No. 04-09 and additional information contained in the KCPD's Data Response and obtained during the OCR's onsite visit, the OCR understands that members of the public can complain of alleged police misconduct by completing a Community Complaint Report form and submitting the Community Complaint Report form to any KCPD facility; to the community-based organizations Northland Neighborhoods, Inc., Westside Community Action Network (CAN) Center, and the Ad-Hoc Group Against Crime; or to the Office of Community Complaints (OCC). According to its website at www.kcmo.org/police/OfficeofCommunityComplaints/index.htm and information that the OCR gathered from OCC staff, the OCC is a civilian oversight agency responsible for protecting the public from misconduct by the KCPD and is under the authority of the Board of Police Commissioners, which governs the KCPD. The Community Complaint Report form is available in English and in Spanish at each of the above-referenced facilities and on-line at <http://www.kcmo.org/police/OfficeofCommunityComplaints/index.htm>. The Community Complaint Report form contains a statement indicating that making untrue declarations to public servants or untrue statements under oath are punishable by law as a felony or misdemeanor.⁸

⁸ Please note that the International Association of Chiefs of Police (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 *Model Policy on Investigation of Employee Misconduct* and its accompanying Concepts and Issues Paper, published

If a complainant files a Community Complaint Report form at a KCPD facility, the KCPD forwards the Community Complaint Report form to the OCC.⁹ If a complainant submits a letter to the KCPD but has not yet completed a Community Complaint Report form, the KCPD will forward the letter to the OCC and the OCC will assist the complainant in completing a Community Complaint Report form. According to the OCC staff with whom the OCR spoke, once the OCC receives a complaint, the OCC reviews the complaint and sends the complainant a letter providing information on the complaint process and requesting that the complainant contact the OCC; if the OCC believes that mediation is viable alternative to a formal investigation of the particular complaint, the OCC will inform of the complainant of this alternative. The OCC staff told the OCR that it typically offers mediation for complaints concerning procedural matters; the OCR understands that the OCC facilitates the mediation between the complainant and the subject of the complaint. If the OCC determines that a complaint is appropriate for a formal investigation, it refers the complaint to the KCPD's Internal Affairs Unit (IAU) for investigation, and the IAU then interviews the complainant and conducts a formal investigation. At the conclusion of the IAU's investigation, the IAU sends its investigative report to the OCC, and the OCC reviews the investigative report and forwards its final analysis and recommended disposition to the Board of Police Commissioners and the Chief of Police of the KCPD. The Board of Police Commissioners is responsible for determining the ultimate disposition of the complaint. The OCC then notifies the complainant in writing of the final disposition.

The IAU command staff told the OCR that they cannot recall the IAU conducting a formal investigation of a complaint involving an LEP complainant, but that if the IAU should encounter an LEP complainant it would rely upon bilingual KCPD employees who are receiving bilingual skill pay or Language Line to communicate. At the time of the OCR's onsite visit, the IAU did not employ any bilingual individuals. According to the KCPD's Data Response and information provided by the IAU command staff during the OCR's onsite visit, during the period of January 1, 2010 through September 20, 2012, the KCPD did not receive any complaints from members of the public alleging ineffective communication with an LEP individual.

During the OCR's interview of OCC staff, the staff indicated that in connection with the OCC's review of complaints or the facilitation of mediation the OCC has encountered several LEP complainants speaking foreign languages including Spanish, Vietnamese, and African languages. The OCC staff said that the OCC communicated with the complainants by relying upon bilingual OCC employees, Language Line, or a family member of the complainant. According to the OCC staff, at the time of the OCR's onsite visit, several OCC employees were "minimally bilingual." The OCC staff could not recall receiving a complaint alleging that the KCPD did not effectively communicate with a LEP complainant. The OCR staff told the OCR that the OCC sends the

by the IACP National Law Enforcement Policy Center (revised October 2001).

⁹ Similarly, the OCR understands that the other organizations that accept complaints against the KCPD also forward the Community Complaint Report form to the OCC.

initial acknowledgement letter to complainants in English only, but has sent the final disposition letter in Spanish to a Spanish-speaking complainant.

6. Community Outreach

According to the KCPD command staff and patrol officers, the KCPD reaches out to LEP populations in a variety of ways. The City of Kansas City contains the Westside CAN Center, which is a non-profit neighborhood and community policing organization that serves the city's Westside. The Westside CAN Center houses two KCPD police officers, a property maintenance code enforcement officer from Kansas City's Neighborhood Preservation Division, and a neighborhood specialist. During the OCR's onsite visit, the OCR interviewed one of the officers stationed at the Westside CAN Center and who stated that community members come to the Westside CAN Center to obtain law enforcement services such as to report a crime, to obtain a police report, or to discuss questions or concerns. The OCR understands that both of the KCPD officers stationed at the Westside CAN Center speak Spanish and may communicate in Spanish with individuals seeking KCPD services. The officer with whom the OCR spoke indicated that he previously received bilingual skill pay but has not undergone the required re-testing, and that he has conducted meetings with community members in Spanish. Several officers from the East Patrol Division also told the OCR that they have spoken in Spanish at meetings or "roll calls" with the Hispanic community addressing various law enforcement issues and concerns. According to the KCPD's Data Response, the East Patrol Division also maintains a hotline in Spanish to receive crime tips and other pertinent information that is answered daily by a Spanish-speaking officer.

Additionally, the KCPD's Youth Services Unit conducts several programs to mentor and educate youth in the community, including a Drug Abuse Resistance Education Program, a Gang Resistance Education and Training Program, and a Police Athletic League. According to command staff from the Youth Services Unit, the majority of youth that participate in these programs speak English very well, but the Youth Services Unit has interacted with LEP parents who speak a variety of foreign languages including Spanish, Sudanese, Somali, and Ethiopian. During the OCR's onsite visit, command staff indicated that the Youth Services Unit employed several individuals who have participated in the KCPD's Spanish Immersion Program and can communicate basic information in Spanish. The command staff said that officers with the Youth Services Unit communicate with LEP individuals by relying upon bilingual officers, bilingual employees at the schools, or by contacting Language Line. The command staff further stated that officers may use youths to interpret for LEP parents to convey basic information but would not rely on youths for interpretation if the matter was sensitive or involved behavioral issues.

During the OCR's discussions with community representatives serving LEP populations, one representative indicated that on several occasions KCPD officers have spoken to a church congregation containing numerous Creole-speaking individuals, utilizing the pastor as an interpreter. The representative commended the KCPD for its willingness to engage with the

community, and indicated that it would be helpful if the KCPD would translate some of its written materials into Creole. Another representative noted that KCPD officers have participated in community meetings with the Hispanic community and commended the KCPD for being responsive, but recommended that the KCPD provide more training for officers on cultural sensitivity issues involving the Hispanic community. One representative expressed concern that the KCPD does not have enough bilingual officers, particularly in languages other than Spanish, and also expressed concern regarding the fact that the KCPD no longer sends officers to Mexico as part of its Spanish Immersion Program. The representative also conveyed an impression that the KCPD was not utilizing Language Line to communicate with LEP individuals.

7. General Language Services

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

a. Oral Language Services

The KCPD command staff, patrol officers, and civilian employees with whom the OCR spoke identified four primary ways in which the KCPD provides oral language assistance to LEP individuals: (1) Language Line; (2) bilingual KCPD employees; (3) friends or family members of LEP individuals or third-party bystanders; and (4) bilingual employees from local community organizations. As discussed previously in this Compliance Review Report, Annex E of the Procedural Instruction No. 06-8 instructs KCPD members to first attempt to locate a bilingual member to provide language assistance, and if a bilingual member is not available, to contact Language Line; if Language Line is not sufficient and depending on the seriousness of the situation, members then have the option of contacting Interpreters, Inc. However, none of the KCPD employees with whom the OCR spoke reported using interpreters from Interpreters, Inc. to communicate verbally with an LEP individual.

As previously noted in this Compliance Review Report, the KCPD uses the telephonic interpreter Language Line to respond to telephone calls from LEP persons, and KCPD officers in the field also use this service during face-to-face encounters. Additionally, command staff from the KCPD's investigative divisions reported that detectives use interpreters from Language Line to provide both telephonic and in-person interpretation during interviews and interrogations.

For non-telephonic encounters with LEP persons, KCPD officers generally obtain language assistance services from a bilingual employee with the appropriate language skills, either by calling the bilingual employee directly, broadcasting a request over the radio, or contacting the Communications Unit. The KCPD offers language skills assessment and additional compensation to bilingual employees under the Bilingual Skill Pay Program. The KCPD's Bilingual Skill Pay Program is governed by KCPD Personnel Policy No. 410-1, *Bilingual Skill Pay* (effective November 30, 2005), and is administered by the KCPD's Human Resources

Division. Based on the information contained in Policy No. 410-1 and information that the OCR obtained from speaking with command staff from the Human Resources Division, the OCR understands that the Human Resources Division offers language skills assessment once a year, and that the assessment involves employees from Language Line conducting a telephonic assessment of each applicant's oral proficiency in the foreign language. Language Line has the capability to assess language proficiency in over 140 different languages, and to qualify for the bilingual skill pay, employees must rate at a high intermediate, advanced, or educated professional level. Successful applicants receive an additional \$50.00 per month, and must have their language skills re-assessed every three years. According to Policy No. 410-1, the Human Resources Division provides the Communications Unit with a list each year of the employees receiving bilingual skill pay, and KCPD members are required to contact the Communications Unit whenever interpretation services are needed to ensure that they are only using employees whose language skills have been assessed and have been deemed proficient.

In the KCPD's Data Response, it provided the OCR with a list of employees receiving bilingual skill pay as of August 23, 2012. This list indicates where each employee is assigned, the language spoken, and whether the employee has a high intermediate, advanced, or educated professional level of proficiency. According to the list, 52 KCPD sworn and non-sworn employees received bilingual skill pay. Of these 52 employees, thirty-three spoke Spanish, three spoke French, two spoke Italian, one spoke each of the languages of Bosnian, Croatian, Farsi, German, Haitian Creole, Japanese, Mandarin, Polish, Romanian, Russian, Somali, Swahili, Thai, and Vietnamese. Additionally, during the OCR's onsite visit, one Spanish-speaking officer with whom the OCR spoke reported providing interpretation in Spanish during field encounters and interviews and interrogations even though he did not pass the language proficiency assessment.

The KCPD said in its Data Response that applicants do not receive additional credit for language skills at the time of hire or promotion, but that language skills may assist an employee in obtaining a specialized assignment. The majority of bilingual officers with whom the OCR spoke said that providing language assistance does not interfere with their ability to complete their own assignments; however, one officer said that it does interfere occasionally. According to management with the Human Resources Division, the KCPD does not specifically recruit bilingual employees.

Regarding the use of family members, friends, and bystanders to interpret, as explained in Section I.C.2 of this Compliance Review Report, almost all of the KCPD employees with whom the OCR spoke reported using these individuals to interpret. However, the employees identified several situations where they would not use a friend, family member, or bystander to interpret, such as if the situation involved domestic violence, if the third-party was involved in the matter, or if there was a need to maintain confidentiality. In addition, several of the command staff and officers also reported using bilingual employees from local community organizations to provide interpretation at a scene, such as individuals from the Mattie Rhodes Center, the Rose Brooks

domestic violence shelter, the Don Bosco Senior Center, the Guadalupe Center, and local hospitals.

According to the KCPD's Data Response, the KCPD disseminates Procedural Instruction No. 06-8 to all employees via the KCPD's web-based Policy Acknowledgement System. Other than disseminating Procedural Instruction No. 06-8 to employees, the KCPD does not train its employees on how to provide services to LEP individuals. Several of the officers with whom the OCR spoke recalled receiving training on accessing Language Line during the police academy. In its Data Response, the KCPD indicated that since 2007 the KCPD has operated six Spanish Immersion Programs, where 112 KCPD sworn and civilian employees have received a minimum of ten weeks of intensive Spanish instruction.¹⁰ The KCPD further indicated that thirty of these officers continued with five additional weeks of instruction in Mexico. However, during the OCR's onsite visit, officers indicated that the KCPD no longer sends officers to Mexico as part of the Spanish Immersion Program.

During the OCR's onsite interviews, when asked if they had any recommendations for how the KCPD could improve its services to LEP individuals, several officers opined that the KCPD could improve its services by continuing to send immersion students to Mexico. The KCPD employees with whom the OCR spoke also echoed the sentiments of the community-based organization that additional bilingual officers were needed. Additionally, one officer recommended that the KCPD utilize ethnic media to inform LEP individuals that the KCPD does not discriminate and will provide language assistance services during all interactions with the KCPD.

b. Written Language Services

In its Data Response, the KCPD indicated that it determines which written materials are made available in languages other than English based on need and specific requests. The KCPD's Data Response included copies of the following documents that have been translated into Spanish: a request for report reproduction; a form with pertinent KCPD telephone numbers; a brochure on preventing residential burglary; a false alarm dispatch notice doorknob hanger; a consent to search form; a pamphlet containing adult abuse information; a notice of outstanding arrest warrant doorknob hanger; a juvenile court referral form; the Community Complaint Report form; a Miranda waiver form; a flyer on vehicle-related crime; and a brochure on reducing false home alarms. The KCPD indicated in its Data Response that these translated materials are available at KCPD facilities, on the KCPD's website, and through distribution by officers at community events, schools, churches, community meetings, and in the field. The KCPD further stated that Interpreters, Inc. translated these materials into Spanish. The KCPD does not have any written materials translated into languages other than Spanish.

¹⁰ In its response to the draft Compliance Review Report, the KCPD indicated that since the time of its Data Response it has conducted an additional Spanish Immersion Program for a total of seven classes involving 125 KCPD members.

During the OCR's onsite visit, in the lobby of the East Patrol Division station the OCR observed the flyer in Spanish on vehicle-related crime, along with a guide in Spanish on police practices and a survey in Spanish requesting information on an individual's satisfaction with police services. The OCR did not observe any other translated documents in the public areas of the East Patrol Division station, the Central Patrol Division station, or at Headquarters. On the front doors of the East Patrol Division station the OCR observed signage in Spanish indicating that no cell phones should be used in the lobby and explaining where individuals may obtain background checks or fingerprinting; the signage regarding cell phone usage is also posted near the front desk inside the lobby. In the KCPD's detention facility at Headquarters, the OCR observed a sign in Spanish near the intake area explaining bonding requirements and telephone usage. None of the KCPD's facilities contain any signage notifying the public that free language assistance services are available.

The KCPD's website, <http://kcmo.org/police>, contains a Google Translate function that allows users to translate the contents of the website into French, German, Italian, Portuguese, Spanish, Russian, Dutch, Greek, Japanese, Korean, Chinese, and Taiwanese. The website also links to several documents that have been translated into Spanish, including the Community Complaint Report form, a flyer on vehicle-related crime, a crime prevention handbook, a guide on burglary prevention, and brochures on holiday season crime prevention tips, general crime prevention tips, the KCPD's "Operation Pawntrace," child safety, and Halloween safety.

Recommendations for the KCPD

The KCPD is currently taking active steps to communicate with the City of Kansas City's LEP populations, such as by operating the Bilingual Skill Pay Program and translating various forms and documents into Spanish. However, the KCPD should build on these steps to provide even more effective language assistance to LEP individuals. As an initial matter, the KCPD should expand upon Annex E of Procedural Instruction No. 06-8 and develop a comprehensive, stand-alone written policy 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 KCPD should advise employees to obtain language assistance services from qualified bilingual employees participating in the Bilingual Skill Pay Program, Language Line, 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 KCPD has finalized its LEP policy, it should immediately train all employees on the policy to ensure that all employees are aware of the proper procedures for providing language assistance services. Following this initial training, the KCPD should establish annual training sessions focused specifically on providing language assistance services to LEP individuals. As part of its training program, the KCPD 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. Additionally, please also find enclosed a CD-ROM, entitled *Espanol for Law Enforcement*, which is an interactive training tool that covers basic Spanish phrases and sentences relative to law enforcement. This CD-ROM may be duplicated; alternatively, additional copies may be requested from the Department of Justice by contacting the National Institute of Justice at (800) 851-3420 or by visiting the following website: <http://www.ojp.usdoj.gov/nij/pubs-sum/201801.htm>.

The KCPD is currently taking positive steps to recruit employees and to ensure that its language assistance services are accurate and reliable by offering qualified bilingual employees the opportunity to participate in the Bilingual Skill Pay Program. As of August 23, 2012, 52 bilingual employees were participating in the Bilingual Skill Pay Program, representing 3% of the KCPD's 1,992 employees. Given this relatively small number and feedback from both KCPD employees and representatives of community organizations, the KCPD should increase its efforts to recruit more bilingual officers, particularly officers who speak languages most frequently encountered such as Spanish, Vietnamese, Arabic, and African dialects. Also, while the KCPD's Communications Unit maintains a list of employees participating in the Bilingual Skill Pay Program, it does not appear that patrol officers or civilian employees have direct access to this list. To ensure that employees are only relying upon qualified bilingual employees for interpretation, the KCPD may wish to distribute this list to all KCPD employees, listing the contact information for each employee.

In regard to written materials, while the KCPD has translated numerous documents into Spanish, the KCPD 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 KCPD 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 2009 to 2011 Census data, it appears that the Spanish-speaking and Vietnamese-speaking LEP populations of Kansas City 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 KCPD should take

steps to translate all of its vital documents into the languages that meet this threshold, such as any documents relating to a citizen's rights or the provision of consent.

The KCPD's continued use of Interpreters, Inc. to translate documents is a good way to ensure the accuracy of translated materials.¹¹ Once the KCPD translates the vital documents and ensures their accuracy, it should then develop a strategy for distributing the materials to the relevant LEP communities. The KCPD should also post signage in the primary languages of its 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.

Regarding community outreach, the KCPD is already taking steps to build relationships with LEP communities, such as by assigning two Spanish-speaking officers to the Westside CAN Center and by having Spanish-speaking officers participate in meetings with the Hispanic community. The KCPD should also reach out to other ethnic communities that contain a significant number of LEP individuals, such as the Vietnamese community and African communities. To ensure that its outreach efforts are effective, the KCPD should establish a mechanism for gathering community feedback on its provision of services to LEP individuals. For example, the KCPD may want to develop a written survey of community groups serving LEP populations, or to convene a focus group of LEP individuals. The KCPD 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 KCPD can hear the LEP community's unique needs regarding outreach. The KCPD should also work with ethnic media outlets to relay public safety information to LEP communities, 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.

D. Available Resources

The KCPD's fiscal year is from May 1 to April 30. According to the KCPD's Data Response, the KCPD budgeted a total of \$212,333,150.00 for operational expenses in fiscal year 2010, budgeted \$221,571,365.00 in fiscal year 2011, and budgeted \$220,400,836.00 in fiscal year 2012. The KCPD indicated that of these amounts, it spent \$85,754.61 on providing language assistance services in fiscal year 2010, \$30,116.26 in fiscal year 2011, and \$58,300.32 in fiscal year 2012. However, during the OCR's onsite visit, KCPD command staff explained that these amounts only represent the funding that the KCPD spent on the Spanish Immersion Program, and do not

¹¹ If the KCPD utilizes bilingual employees to translate any written materials, it should 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 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 KCPD could also 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.

include funding spent on Language Line services or the additional compensation provided to bilingual employees participating in the Bilingual Skill Pay Program.

Recommendation

The KCPD 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 KCPD can provide more effective language assistance services, as discussed above. The KCPD 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 in a variety of foreign languages. The KCPD should also utilize these 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 Policy on Language Assistance for LEP Persons

According to DOJ Guidance, an effective policy 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 policy.

Recommendation

The KCPD should expand upon Annex E of Procedural Instruction No. 06-8 and develop a comprehensive, stand-alone written policy 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 doing so, the KCPD 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) sample written language assistance policies developed by other law enforcement agencies and approved by the DOJ. These documents are available online at <http://www.lep.gov>, and should assist the KCPD in developing a comprehensive written language assistance policy on providing services to LEP persons. The OCR also recommends that the KCPD name one person on staff to be responsible for coordinating services to LEP persons. This individual's first task might be to review this Report and the OCR's recommendations to develop a formal language assistance policy that will become familiar to every employee at the KCPD.

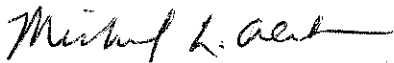
Darryl Forté, Chief of Police
August 15, 2013
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Conclusion

This letter serves as notice that OCR has made a preliminary determination that the KCPD appears to be taking steps to provide meaningful access to its programs and activities to LEP persons. However, the KCPD should build on these steps to ensure compliance with Title VI. On request, the OCR is available to provide technical assistance to the KCPD in implementing the OCR's recommendations and developing a comprehensive written language assistance policy.

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

Yours very truly,



Michael L. Alston
Director

Enclosures

cc: Virginia H. Murray
General Counsel

Mark Russo
Operations Analyst