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Office of Justice Programs

Office for Civil Rights

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VIA CERTIFIED MAIL AND ELECTRONIC MAIL

Raymond W. Kelly
Police Commissioner
New York City Police Department
One Police Plaza
Room 1400
New York, NY 10038

Re: Compliance Review of New York City Police Dep't (10-OCR-0015)

Dear Commissioner Kelly:

I am writing to report the findings of the Compliance Review of language services of the New York City Police Department (referred to as NYPD, Department, or Recipient) conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ), in accordance with federal regulations 28 C.F.R. §§ 42.107(a), .206. The OCR would like to thank the NYPD, especially Deputy Chief John Donohue and his staff, for accommodating the OCR Investigative Team, George Mazza, Christopher Zubowicz, and Joseph Swiderski, during their April 13-23 and June 8, 2010, onsite visits.

In my letter to you, dated January 15, 2010, I noted that the OCR had selected the NYPD 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 NYPD's provision of services to people who, as a result of their national origin, are limited English proficient (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.

I. Background

Title VI, the Safe Streets Act, and implementing regulations require that recipients of federal financial assistance ensure meaningful access to their programs and activities for LEP individuals. To assist financial aid recipients comply with these requirements, the DOJ published guidance in June of 2002 about taking reasonable steps to provide meaningful access to programs and activities for LEP persons.¹ See Guidance to Federal Financial Assistance

¹ The Department issued the DOJ Guidance in response to Executive Order 13166, which directs every federal agency that provides financial assistance to publish guidance about how their recipients can ensure compliance with Title VI.

Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002) (DOJ Guidance). Using the technical assistance standards in the DOJ Guidance, the OCR initiated this Compliance Review to determine the extent to which the NYPD provides language services to LEP persons. After a thorough evaluation of the NYPD's services, including the Department's Response to the OCR's Data Request and information the OCR gathered in connection with its onsite visits, which included community meetings with constituents and interviews with Recipient officials, command staff, sworn officers, and civilian personnel, we issue the following Compliance Review Report.

II. Executive Summary

As discussed above, a recipient of federal financial assistance is required to take reasonable steps to ensure meaningful access to its programs and activities for LEP persons. Given the wide range of recipients of federal funds and the even wider range of types of contacts those recipients may have with LEP individuals, the DOJ Guidance establishes an analytical framework that balances four factors in determining what measures are reasonably required to ensure meaningful access: (1) the number or proportion of LEP persons that are 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 related costs. 67 Fed. Reg. at 41,459-61. Under this analysis, we conclude that the NYPD 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 its services. The Department should build on these steps and take further action to ensure it meets its obligations under these statutes.

This Compliance Review Report closely tracks the DOJ Guidance by evaluating the performance of the NYPD under the four-element balancing test, and makes specific recommendations for improving agency outcomes under each prong. In the following sections, the Report explains the scale and methodology of the Compliance Review and describes the policy-making efforts of New York City (City) and the NYPD to provide language access to LEP persons. Then, the Report evaluates how effectively the Department does the following: takes into account the size and variety of the City's LEP service population, as well as its interactions with LEP groups; provides language services during certain interactions with the public; trains employees about language issues; serves LEP communities through outreach and officer recruitment; provides written language resources; and maximizes its resources to provide language services. Ultimately, through the OCR's observations and recommendations, including the recommendation that the Department modify its Language Access Plan, the Report seeks to identify ways in which the Recipient can improve its services to LEP individuals.²

² It is the OCR's standard procedure to provide, as a courtesy, a draft compliance review report to a recipient before issuing a final report; the limited purpose of this review is to allow a recipient to provide supplemental, clarifying information about any factual statements contained in the report. Consistent with this practice, on August 31, 2010, the OCR sent the NYPD a draft Compliance Review Report for review. On October 22, 2010, the Department responded to the draft Report. NYPD Response to Draft Compliance Review Report (Oct. 22, 2010) (on file with

III. Scope of Report

The City, with a population of approximately 8.4 million people and 1.8 million LEP persons,³ has especially large and diverse LEP populations throughout its five boroughs of Manhattan, the Bronx, Brooklyn, Queens, and Staten Island.⁴ Given the scale of the language issues confronted by the NYPD, the OCR's Compliance Review assesses the Department's general policies, procedures, and protocols for providing language assistance and monitors how effectively those measures are implemented at specific point-of-service locations in each borough.⁵

A. Point-of-Service Locations

The NYPD provides services to the public throughout the City, including in the field and at various point-of-service police facilities comprised of seventy-six precincts, twelve transit districts, and nine housing police service areas (housing PSA).⁶ Each of these point-of-service categories interacts with different constituencies. Precincts are specific geographical areas that primarily provide services to residents and visitors within those boundaries. Transit districts mainly serve commuters and others using the Metropolitan Transportation Authority's New York City Subway (Subway) system. The geographic boundaries for these districts are determined in large part by Subway lines and extend through various precincts. As a result, their service population is especially diffuse and transient. Housing PSAs border precincts and provide services to individuals who reside in or travel near designated public housing. They provide services to a smaller number of persons than a precinct or transit district and have access to more data about their service populations. For instance, each housing PSA has detailed demographic information about residents within individual public housing developments. Despite serving different groups, precincts, transit districts, and housing PSAs perform similar law enforcement functions, although precincts and housing PSAs engage in more community

the OCR). In several instances, the final Compliance Review Report addresses the salient comments that the Department provided in its Response to the draft Report.

³ U.S. Census Bureau, *Table 1, Annual Estimates of the Resident Population for Incorporated Places Over 100,000, Ranked by July 1, 2009 Population: April 1, 2000 to July 1, 2009*, <http://www.census.gov/popest/cities/SUB-EST2009.html> (last visited Nov. 4, 2010); see also New York City Dep't of City Planning, *Population*, <http://www.nyc.gov/html/dcp/html/census/popcur.shtml> (last visited Nov. 4, 2010); New York City Dep't of City Planning, *Language Access*, <http://www.nyc.gov/html/dcp/html/about/language.shtml> (last visited Nov. 4, 2010).

⁴ Sam Roberts, *Listening to (and Saving) the World's Languages*, N.Y. Times, Apr. 29, 2010, at A1, available at <http://www.nytimes.com/2010/04/29/nyregion/29lost.html>.

⁵ It bears emphasis, however, that, while the Report focuses on language access at specific locations in the City, the NYPD, as a recipient of federal financial assistance, must provide effective language assistance to LEP persons throughout the City. The OCR's selection of certain sites for inspection does not circumscribe that obligation.

⁶ The NYPD divides the City's precincts into the following eight patrol boroughs: (1) Manhattan North, (2) Manhattan South, (3) the Bronx, (4) Brooklyn North, (5) Brooklyn South, (6) Queens North, (7) Queens South, and (8) Staten Island.

outreach activities than transit districts.

B. Compliance Review Methodology

As part of its Compliance Review, the OCR sought to identify and visit precincts, transit districts, and housing PSAs that serve large numbers of LEP persons representing varied language groups. This section of the Report describes the methodology used to select those locations.

To identify and select specific point-of-service areas to review, the OCR conducted extensive background research regarding geographic boundaries and demographics within the City.⁷ In order to determine the locations of substantial LEP populations, the OCR required two types of information: (1) Geographic Information System (GIS) shape files, which delineate the geographic boundaries of counties, police precincts, and Census tracts (which are smaller geographic units than counties or precincts); and (2) demographic data from the United States Census Bureau regarding the number of LEP individuals residing within various communities. Throughout this project, the OCR collaborated with a GIS Unit located in the Civil Rights Division, DOJ, which has the technical expertise to perform complex GIS and demographic analyses.

The OCR collected pertinent GIS information from the Department of City Planning's (DCP) "Bytes of the Big Apple" online data resource (http://www.nyc.gov/html/dcp/html/bytes/dwn_districts.shtml#cbt). This tool provides free GIS shape files that describe the boundaries of the City's administrative districts, including police precincts.

Next, the OCR obtained the following two demographic data sets from the U.S. Census Bureau's Web site (<http://www.census.gov/>): (1) 2000 Census, and (2) the 2006-2008 American Community Survey (ACS) Three-Year Estimate. We utilized two population data sets for several reasons. First, the OCR wanted to select specific point-of-service locations within the City's five boroughs where various language groups reside. As a result, we needed a unit of analysis more precise than the county level – in this case, we used the 2000 Census' tract-level population counts for each of the City's five counties. Because these counties are coextensive with the five City boroughs,⁸ an observer can examine population data at the Census-tract level to pinpoint exactly where in each borough various language groups reside. Second, the OCR wanted to select certain sites based on recent demographic data. While the 2000 Census provided the needed level of geographic detail, this data collection is ten years old and estimates from the 2010 Census are not yet available. The 2006-2008 ACS is a more recent data collection that reflects the post-2000 Census growth in the City's population. The ACS, however, only provides population figures at the county level – unlike the 2000 Census data set, it lacks

⁷ The OCR also issued a Data Request to the NYPD seeking information about the geographical distribution of LEP groups; however, the Department did not provide responsive data.

⁸ Manhattan is New York County, Brooklyn is Kings County, Queens is Queens County, the Bronx is Bronx County, and Staten Island is Richmond County.

information at the Census-tract level that would allow the OCR to evaluate language groups at specific locations within individual boroughs.

The OCR wanted to use the more recent population figures of the ACS while maintaining the level of geographic precision afforded by the 2000 Census-tract information. To accomplish this objective, the OCR and the GIS Unit devised the following solution. The GIS Unit examined the percentage change in each borough's population from the 2000 Census to the 2006-2008 ACS.⁹ The GIS Unit then took the percentage change in borough population and applied that change to the 2000 Census tract-level data. For example, if the population of Kings County (Brooklyn) increased by twelve percent from the 2000 Census data to the 2006-2008 ACS data, then the GIS Unit increased the population of each 2000 Census tract in that county by twelve percent to produce estimated 2008 Census-tract populations. The GIS Unit repeated this method to produce estimated 2008 LEP populations at the Census-tract level for each of the five boroughs. Such an approach has its limits; not all populations within a borough grow at rates equal to the population growth rate of the overall borough – some language groups may have in fact decreased in size. This method, however, produced reasonable estimates of 2008 LEP populations. By analyzing the two Census data sets together, the OCR obtained a more recent, detailed representation of specific tracts where the City's LEP populations are located.

To identify specific precincts where certain language-minority groups reside in the City, the OCR needed to overlay the Census data onto the precinct boundaries contained in the GIS shape files. To that end, the OCR also collaborated with the GIS Unit. The OCR wanted to review maps that depict the location and number of LEP speakers within individual precincts for the following languages: Spanish, Chinese,¹⁰ Korean, Russian, and Arabic. The OCR selected these languages based on its analysis of publicly available Census data and information from the City's Office of the Mayor. In response to input from the OCR, the GIS Unit produced a series of twenty-two color maps depicting the distribution across the City and within specific precincts of LEP persons who communicate in the languages identified by the OCR. Each map depicts one borough and the population of one of the selected language groups within that borough's precincts. The maps for all five boroughs reflect the locations of Spanish-, Chinese-, Russian-, and Arabic-language population clusters;¹¹ the maps for Queens and Staten Island also reveal information about LEP residents who speak Korean.¹²

⁹ The population grew in each borough.

¹⁰ The Census data reviewed by the OCR did not identify Chinese by dialect spoken.

¹¹ Normally, when defining who is considered to be LEP, the OCR includes only individuals who speak English "not well" or "not at all." When creating the Russian- and Arabic-language maps, the GIS Unit used a more expansive definition of LEP, including individuals who spoke English "well," "not well," and "not at all." As a result, the maps for these two language groups may have captured some individuals who would not have appeared on the other language groups' maps.

¹² Displaying the Korean-language populations in Brooklyn, Manhattan, and the Bronx on the same scale as those boroughs' Spanish, Chinese, Russian, and Arabic speakers would obscure the distribution of the Korean-language

The OCR used all of these GIS and Census data, including the GIS Unit maps, to select the following twelve precincts, two transit headquarters, two transit districts, and three housing PSAs to inspect during its April 2010 onsite review: (1) Manhattan – Precinct Nos. 5 and 33; (2) the Bronx – Precinct Nos. 44 and 46, the Bronx Transit Headquarters, Transit District No. 12, and Housing PSA No. 7; (3) Brooklyn – Precinct Nos. 60, 62, and 68, Brooklyn Transit Headquarters, Transit District No. 30, and Housing PSA Nos. 1 and 3; (4) Queens – Precinct Nos. 109, 110, and 112; and (5) Staten Island – Precinct Nos. 120 and 122.¹³ Throughout its onsite visits at these locations, the OCR interviewed approximately 110 command staff, uniformed members of the service, and civilian personnel.

The OCR also visited the NYPD's Public Safety Answering Center to evaluate how the Department provides language assistance to emergency 9-1-1 callers. To review in more detail the provision of language services to arrestees, it also conducted onsite inspections of the Recipient's Manhattan and Brooklyn Central Booking facilities.

C. OCR Community Meetings

During the OCR's April 2010 onsite review, it held three roundtable meetings with several community groups to discuss the NYPD's interactions with LEP members of the public. The OCR selected the host sites for community meetings based on the same data it evaluated in identifying precincts to review onsite, although, in some instances, attendees shared information about point-of-service locations in other parts of the City. During these community meetings, participants made various observations – sometimes based on anecdotal information, none of which the OCR independently verified – about the NYPD's ability to provide language assistance to LEP persons. Throughout the Report, the OCR incorporates several comments from community groups in discussing the Department's language access efforts.¹⁴

IV. City and NYPD Initiatives to Formalize Language Access Efforts

A. Mayoral Executive Order 120

Responding in part to the requirements of Title VI and President Clinton's Executive Order 13166, the Office of the Mayor issued an executive order requiring the NYPD to provide language services to LEP persons. *See* Exec. Order No. 120, Citywide Policy on Language Access to Ensure the Effective Delivery of City Services (July 22, 2008). In Executive Order

population because of its small size. The Korean-language population in those boroughs is much smaller than the other languages and requires its own scale to meaningfully depict the variation in the location of Korean speakers.

¹³ The OCR selected representative transit headquarters, transit district, and housing PSA sites to visit based on their proximity to precincts with substantial LEP populations.

¹⁴ The instant Compliance Review is subject to the Privacy Act of 1974, 5 U.S.C. § 552a, which constrains the ability of the OCR to share information with the NYPD about its communications with third parties.

120, the Mayor's Office requires each City agency that provides direct public services, including the NYPD, to "ensure meaningful access to such services by taking reasonable steps to develop and implement agency-specific language assistance plans regarding LEP persons." Exec. Order No. 120 at 2.¹⁵ Under the executive order, the NYPD must (1) designate a Language Access Coordinator to monitor the creation and execution of a language access policy and implementation plan; (2) develop an appropriate language access policy and implementation plan; (3) provide language services based on at least the top six languages spoken by the population of the City, as determined by the DCP and as those languages are relevant to its services; and (4) ensure that the language access policy and implementation plan includes (i) identification and translation of essential public documents, (ii) interpretation services, including the use of telephonic interpretation services, for at least the top six languages spoken by the population of the City, (iii) appropriate training on language access policies and procedures, (iv) posting of signage regarding the availability of free interpretation services, (v) establishment of an effective monitoring and measurement system regarding the provision of agency language services, and (vi) creation of appropriate public awareness strategies for the agencies' service populations.¹⁶ *Id.* at 2-3.

B. NYPD Language Access Plan

In response to Executive Order 120, in April of 2009, the NYPD issued its Language Access Plan (LAP or Plan).¹⁷ The LAP contains sections that explain its mission and goal; purport to rely on the DOJ Guidance's four-factor framework to assess the language needs of its service population; designate the commanding officer of the Office of Management Analysis and Planning (OMAP) as the Department's Language Access Coordinator; highlight several available language assistance resources; describe training programs for recruits and in-service members; outline several methods for collecting and evaluating data regarding the provision of various language services; and describe how the Department informs LEP persons about available services. While the OCR commends the NYPD for implementing its LAP, throughout the instant Report, we encourage the Department to include more information in the Plan about how it provides language services to the public.

V. Assessing the Number or Proportion of LEP Individuals in the Service Population

One factor in determining what language services a recipient should provide is the number or proportion of LEP persons from a particular language group served or eligible for service – the

¹⁵ In discussing an agency's obligation to provide language assistance, Executive Order 120 adopts the DOJ's four-prong analytical framework, as detailed in the DOJ Guidance (*see* Compliance Review Report, *supra* Section II.), to evaluate whether the agency is taking sufficient steps to ensure compliance with its obligations under local law.

¹⁶ In addition to taking the specific actions detailed in Executive Order 120, and as explained in the instant Report, the NYPD should implement several additional measures to ensure compliance with its obligations under federal law.

¹⁷ The LAP is available online at http://www.nyc.gov/html/nypd/downloads/pdf/public_information/nypd_language_access_plan_042009.pdf.

greater the number or proportion of these persons, the more language services that a recipient must provide. The NYPD has made several efforts to identify foreign-language groups throughout the City. In 2006, the Department asked the Vera Institute of Justice (Vera) to assist it in identifying emerging immigrant communities in the City. To accomplish this project, Vera relied in part on demographic data regarding students enrolled in City public schools. After Mayor Bloomberg signed Executive Order 120, the NYPD also sought to analyze additional information about language groups in the City by examining data regarding its reliance on telephonic and in-person interpretation resources and conferring with community and religious groups. Based on this assessment of frequently encountered foreign languages, the Department learned that its interactions with LEP persons throughout the City often involve Spanish, Mandarin, Russian, and Cantonese speakers. In response to the Mayor's Executive Order, the DCP also conducted its own demographic analysis of the City's LEP populations, which identifies Spanish, Chinese, Korean, French Creole, Russian, and Italian as the six languages most frequently encountered in the City. After evaluating its internal findings, as well as those of the DCP, and recognizing that assessing demographic data is one of the DCP's core competencies, the NYPD decided to accept the DCP's findings. NYPD Response to Data Request No. 6 (Mar. 22, 2010) (noting that the Department "concur[s] with City Planning that these languages are to be considered for providing access to services for LEP populations to the extent practicable").

While the NYPD has endeavored to identify certain foreign languages that are spoken by substantial numbers of LEP persons throughout the City, it has not made similar efforts to identify whether personnel uniformly encounter specific languages throughout the City, or whether, as is more likely, certain language groups are encountered more frequently in various field locations and specific point-of-service police facilities. The OCR learned during its onsite review that the Department has the capacity to glean a significant amount of information about the location and size of language groups in areas throughout the City. For instance, the OMAP – the office responsible for implementing the LAP – has sophisticated mapping resources that it could use to analyze the same GIS data that the OCR consulted in selecting locations to visit. Various commanding officers also gave the OCR detailed information about the size and scope of different LEP populations in individual precincts, transit districts, and housing PSAs. In fact, as discussed below (*see* Compliance Review Report, *infra* Section IX.B.1.), during the OCR's onsite visits, we discovered that various point-of-service locations routinely share demographic data about their service populations with the NYPD's One Police Plaza Headquarters (Headquarters).

Recommendations

As an initial matter, the NYPD should use its extensive resources to obtain and analyze more detailed demographic data about LEP residents in individual point-of-service areas. To monitor language-access-need trends among the public, the Department should continue to evaluate general population data from the DCP. The Recipient may also benefit from reviewing recent data collected by local school districts regarding the primary languages spoken by enrolled students and their families in a given area. The NYPD also should ensure that it periodically

reviews and considers the pertinent demographic information provided to Headquarters by precincts, transit districts, and housing PSAs. Such data can assist in numerous ways, including in identifying interpreter needs and focusing translation efforts. Further, the NYPD should continue to consult community organizations and religious groups to identify populations who would benefit from specific language assistance services. Once it identifies prevalent language groups in specific geographic areas, the Department should periodically review LEP population shifts to determine whether it should deploy different or additional language resources to those locations.

VI. Assessing the Frequency of Contacts with LEP Persons

A recipient should evaluate how often LEP persons come into contact with its personnel. In its Response to the OCR's Data Request for interactions with LEP persons, the NYPD asserts that it cannot accurately estimate the number of LEP persons to whom it provides specific language assistance because of the Department's size and the varied nature of its interactions with members of the public. NYPD Response to Data Request No. 7 (noting that "[i]t is impossible to calculate the precise number of LEP individuals to whom the NYPD provided language assistance services" and that "it is also impossible to estimate how many encounters the Department has with LEP individuals"). First, the Department emphasizes that it is a large organization with a workforce exceeding 50,000 employees. As of August 31, 2010, there were 35,629 uniformed members of the service and 15,201 civilian members of the service. NYPD Response to Draft Compliance Review Report at 2. Second, the Department suggests that it cannot evaluate its interactions with LEP individuals in specific contexts because "employees encounter LEP individuals on a daily basis in a wide array of settings, ranging from persons asking for directions to victims reporting a crime." *Id.* Despite taking this position in its Data Request Response, the NYPD's LAP promises to "determine the frequency with which LEP individuals come in contact with the language access program by periodically examining Department records." LAP at 3. Consistent with the goal of the LAP, and based on the records reviewed by the OCR, the NYPD has several mechanisms in place to collect data about how often it provides language services to members of the public (1) through specific language resources and (2) in various contexts.

A. Data Collection Regarding Reliance on Specific Language Resources

While the NYPD sought to disclaim its ability to document all interactions with LEP persons, the Department acknowledges in its LAP that it collects and reviews data on how often it uses Language Line Services (Language Line), which is a telephonic interpretation service that can provide interpreters for approximately 183 languages, and its Volunteer Language Program (VLP or Program), which is managed by the Department's Operations Division and provides a pool of employee interpreters and translators to assist other personnel.

1. Language Line

During the first three months of 2010, Language Line provided the following interpretation assistance for the NYPD:

Language Line Assistance Provided to the NYPD (January 2010 - March 2010)						
	Number			Percent of Total Language Line Calls		
	January 2010	February 2010	March 2010	January 2010	February 2010	March 2010
<u>Total Language Line Calls</u>	7327	6495	7866	100.0%	100.0%	100.0%
<u>Number of Languages Served</u>	43	40	49			
<u>Most Frequently Served Languages</u>						
Spanish	5044	4543	5546	68.8%	69.9%	70.5%
Mandarin	1000	790	950	13.6%	12.2%	12.1%
Russian	447	354	455	6.1%	5.5%	5.8%

The NYPD Chief of Personnel, who serves as the Department's human resources coordinator, receives a monthly report about Language Line usage; the Language Access Coordinator receives a similar, quarterly report. The Language Access Coordinator is responsible for monitoring and reviewing, on an annual basis, Language Line data "to ensure that the Department is adequately addressing the needs of LEP individuals." LAP at 7.

2. VLP

In contrast to its extensive data regarding Language Line usage, the NYPD has less complete information about how often sworn and civilian personnel rely on the VLP for language assistance. The Department provided a report detailing how often certified interpreters in its Program are requested through the Operations Division. *See Compliance Review Report, infra* Section VII.B.1.b., for discussion of NYPD reliance on certified interpreters. From March 2009 through March 2010, the Operations Division responded to 193 requests for certified interpreters and translators (excluding thirty-seven requests for sign language assistance). According to the Recipient, the three most commonly requested languages were Mandarin (forty-four requests), Russian (eighteen requests), and Cantonese (seventeen requests). The report does not, however, include any information about how often personnel relied on members with self-identified foreign-language skills who also participate in the VLP (but who are not certified).¹⁸ The report also does not accurately summarize the circumstances surrounding each request for assistance,

¹⁸ In responding to the draft Compliance Review Report, the NYPD incorrectly suggests that, under its interpretation of the standard applied by the OCR, it must note whether or not language assistance is provided in connection with each of its estimated 23,000,000 annual public contacts. The DOJ Guidance does not contemplate such a broad data collection effort. Rather, the NYPD should evaluate "the nature and importance of the particular law enforcement activity involved." DOJ Guidance, 67 Fed. Reg. at 41,468. While the instant Report endeavors to highlight those interactions with the public that are especially significant, we are, as always, willing to provide technical assistance to the NYPD in an effort to ensure that it satisfies its obligations under Title VI and the Safe Streets Act.

such as whether a specific certified interpreter could be located and if any certified interpreter was available. As with the Language Line data, the Department's Language Access Coordinator is responsible for monitoring and reviewing, on an annual basis, the number of requests for language assistance under this Program. LAP at 7, 9.

B. Data Collection Regarding Provision of Language Assistance During Different Types of Encounters

In addition to the NYPD's data collection instruments regarding its reliance on specific language resources, various Department procedures require officers or administrators to document when they provide language assistance to LEP persons during specific types of encounters.

1. Emergency Calls

The NYPD's Communications Division maintains reports detailing how often the Department's Public Safety Answering Center provides specific language assistance to 9-1-1 callers seeking emergency assistance. During its April 2010 onsite visit, the OCR received a summary report that includes information about LEP persons calling the Public Safety Answering Center from 2000 through 2009. In 2009, the Public Safety Answering Center handled 254,141 calls from LEP persons, which constitutes 2.34% of all calls and the highest percentage of LEP calls since at least 2000. Most callers spoke Spanish and received assistance from either in-house bilingual staff (71.6% of the Spanish-language calls) or Language Line (28.4% of the Spanish-language calls). The NYPD also provided information to the OCR about how often it provided language assistance to 9-1-1 callers seeking emergency assistance between January 1, 2009, and February 28, 2010. During that time period, the NYPD transferred 104,784 calls to Language Line, which provided interpretation assistance in eighty-six languages. NYPD Response to Data Request No. 7. The three languages most commonly interpreted by Language Line were Spanish (70.9% of calls), Mandarin (12.5% of calls), and Russian (5.2% of calls).

2. Field Encounters

During the OCR's April 2010 onsite visit, the NYPD provided detailed reports about its reliance on Language Line organized by patrol borough, precinct, and radio code. These data, which are compiled by the Personnel Data Unit within the Department's Personnel Bureau, present a significantly more nuanced view of Language Line usage than the total usage figures initially provided by the Recipient. From March 2009 through March 2010, certain patrol boroughs relied on Language Line much more heavily than others.¹⁹ Overall, the patrol boroughs' two most frequently interpreted languages were Spanish (66.9% of Language Line calls) and Mandarin (10.8% of Language Line calls). Six of the Department's seventy-six precincts

¹⁹ Based on these data, Language Line provided assistance to the patrol boroughs as follows (listed from most to least number of total Language Line calls): (1) the Bronx – 6,110 total calls, (2) Queens North – 4,832 total calls, (3) Brooklyn South – 4,800 total calls, (4) Manhattan North – 3,288 total calls, (5) Brooklyn North – 2,463 total calls, (6) Manhattan South – 2,086 total calls, (7) Queens South – 1,730 total calls, and (8) Staten Island – 417 total calls.

(Precinct Nos. 44, 46, 72, 109, 110, and 115) accounted for almost one quarter (22.7%) of Language Line calls and provided a significant level of interpretation assistance for the following languages:²⁰

Table of High-Volume Language Line Usage in Select NYPD Precincts								
Precinct			Most Frequently Encountered Languages					
Number	Borough	Total Language Line Calls	1		2		3	
			LL* Calls	Percent**	LL* Calls	Percent**	LL* Calls	Percent**
109	Queens	1230	Mandarin 506 41.1%		Spanish 227 18.5%		Korean 212 17.2%	
110	Queens	1062	Spanish 750 70.6%		Mandarin 135 12.7%		Chinese 41 3.9%	
72	Brooklyn	991	Spanish 472 47.6%		Mandarin 298 30.1%		Chinese 103 10.4%	
115	Queens	893	Spanish 790 88.5%		Mandarin 32 3.6%		Hindi 14 1.6%	
44	Bronx	838	Spanish 780 93.1%		French 11 1.3%		Mandarin 11 1.3%	
46	Bronx	794	Spanish 757 95.3%		French 13 1.6%		Mandarin 8 1.0%	

*Language Line
 **Percent of Precinct's total Language Line calls

In evaluating these reports, it is also critical to assess areas where Language Line served large numbers of LEP persons speaking certain languages, even though those precincts may not be viewed as producing the most Language Line calls. For instance, in Precinct No. 60, 62% of the calls (355 calls) were in Russian; in Precinct No. 5, which the OCR visited, 45% of the calls (279 calls) were in Mandarin.

The NYPD did not provide similar comprehensive data regarding how often personnel rely on certified and non-certified VLP interpreters or translators to provide assistance in the field, even though the Department has mechanisms in place to collect information regarding significant interactions with the public. As mentioned above, the Operations Division maintains limited information about requests for certified interpreters and translators, such as the nature of a request for assistance. The Department also expects supervisors and uniformed members to collect and report information about interactions with LEP persons in the field. For instance, supervisors must document each instance when they rely on any interpreter or translator – certified or otherwise – for field assistance. Procedure No. 212-90, Patrol Guide, Volunteer

²⁰ During the OCR's onsite review, we visited four of these six high-volume precincts.

Language Program/Language Line, at 3 (Dec. 22, 2006). Under Department policy, personnel also must document an arrestee's LEP status and whether the Operations Division provided language assistance in communicating with that individual. *See* Procedure No. 208-03, Patrol Guide, Arrests – General Processing, at 1 (Jan. 1, 2000) (officer must create command log entry regarding request for language assistance); PD 244-159, On Line Booking System Arrest Worksheet (officer must note whether the perpetrator needs an interpreter and, if so, in what language).

3. Crime Reports

When a member of the public reports a crime, NYPD personnel prepare a Complaint Report Worksheet, which elicits information about whether an interpreter was used to prepare the report and whether an interpreter is needed in a particular language to communicate with a victim, witness, or suspect. In discussing its procedure for handling complaints (other than vice, narcotics, or organized-crime-related complaints), the NYPD also instructs an officer, in completing the Complaint Report Worksheet, to include information about the assistance provided by the interpreter. Procedure No. 207-07, Patrol Guide, Preliminary Investigation of Complaints (Other Than Vice Related or Narcotics Complaints), at 6 (Jan. 1, 2000). If a person reports an incident of domestic violence, Department personnel complete a Domestic Incident Report, which seeks information about the language of an LEP victim or suspect.

Despite the avenues for reporting data about language assistance provided in connection with emergency calls, field encounters, and crime reports, the OCR could discern no systematic effort by the NYPD (1) to share any such data with commanding officers of specific point-of-service locations, (2) to monitor whether personnel properly document their interactions with LEP persons, or (3) to collect and analyze information about how often language assistance is provided in different contexts throughout the City.

Recommendations

The NYPD should enhance its systems for gathering information about contacts with LEP persons, which would allow it to assess more accurately the needs of the City's LEP populations. It should, at a minimum, regularly analyze the use of Language Line and the VLP, document the language services provided by bilingual staff and officers who are not registered or certified participants in the Program, and document all interactions with the public where an LEP individual may have required language assistance but the Department could not provide it.²¹ The NYPD also should refine its ability to review the provision of language assistance in specific contexts. It can choose how it will collect and monitor this information, such as by modifying its existing reporting methods, but it should ensure that its data collection system tracks (1) the language spoken by the LEP person, (2) the location of the interaction, (3) the type of interaction, and (4) the NYPD's response. The NYPD should then tabulate all of these data on a periodic basis to determine the evolving language needs throughout the City and within certain

²¹ *See supra* note 18.

service areas.

VII. Assessing NYPD Obligations to Provide Specific Services to LEP Persons

This section of the Report evaluates the NYPD's efforts to provide language services to LEP persons. As reflected in its LAP, the NYPD recognizes its basic obligation to provide language services. LAP at 2 (noting that it "is the policy of the [NYPD] to take reasonable steps to provide timely and meaningful access for LEP persons to the services and benefits that the Department provides to the degree practicable"); *see also* NYPD Response to Data Request No. 10. Further, it recognizes that, "[w]hen performing law enforcement functions, [personnel] provide free language assistance to LEP individuals whom they encounter when necessary or whenever an LEP person requests language assistance services." LAP at 2. In an effort to provide effective language assistance to the LEP persons it encounters, the NYPD relies on several external and internal language resources and initiatives.

A. External Language Resources

1. Multilingual Signs

In its LAP, the NYPD notes that it will "inform members of the public that language assistance services are available free of charge to LEP persons." LAP at 3. To assist the Department achieve this goal, the Mayor's Office created signs, entitled "Free Interpretation Service Available," that inform the public in twenty-two languages that it can access free language services from the City.²² On September 28, 2009, the NYPD issued an Operations Order requiring personnel to conspicuously post these multilingual signs in publicly accessible areas, including complaint rooms and reception areas, of the Department's point-of-service facilities. During the OCR's site visit, it routinely observed that the sign was posted in individual precincts, transit districts, and housing PSAs.²³

2. Language Line

According to the NYPD, in most cases, other than for ongoing investigations and document translation, Language Line is the most efficient method of obtaining language services. NYPD Response to Data Request No. 10. The Department relies on two methods to facilitate personnel access to Language Line. First, it states that special dual handset telephones that can access the service are available in every precinct, transit district, and housing PSA. LAP at 9. These telephones typically are located in a point-of-service location's complaint room and detective squad offices. According to the NYPD, field technicians from its Telecommunications Unit evaluate and document, at least once a month, whether functional Language Line telephones are

²² The sign translates the following text into each language: "Point to your language. An interpreter will be called. The interpreter is provided at no cost to you."

²³ The Department is revising Procedure No. 212-90 to include specific information about these multilingual signs. NYPD Response to Draft Compliance Review Report, App. at 12.

accessible at each point-of-service facility.²⁴ Consistent with this inspection schedule, the Telecommunications Unit recently inspected each precinct, transit district, and housing PSA and verified that each facility has the appropriate number of working Language-Line-equipped telephones. Second, the Recipient asserts that key personnel, such as patrol supervisors and some domestic violence prevention officers, have cell phones that are programmed with the number for Language Line. During Department training, patrol supervisors are strongly encouraged to carry this cell phone with them in the field. While the OCR applauds the NYPD for seeking to ensure access to Language Line through these two methods, our onsite inspections and interviews suggested that the Department has not fully implemented its deployment of cell phones to appropriate personnel. For instance, several NYPD employees, including one commanding officer, concede that their patrol supervisors do not, in fact, have Language-Line-equipped cell phones that can be used in the field. Several civilian personnel also commented that, in interacting with LEP persons, they do not use the dual handset telephones to access Language Line. Instead, they rely on language assistance from individuals whose interpreter skills may not, in fact, be reliable.

3. Online Language Translation Services

At one precinct, the OCR learned that the NYPD's Intranet portal contains links to two online language translation services (Paralink and Altavista's Babelfish), although these resources are not available to officers in the field. The Department does not train its personnel to use these services; instead, personnel are instructed to rely, where appropriate, on the VLP or Language Line. The Department did not provide information about how frequently these translation services are utilized by sworn or civilian personnel throughout the City.

Recommendations

The NYPD should periodically confirm that the notice regarding the availability of free interpretation services is posted in appropriate locations throughout point-of-service locations. The Department also should continue its efforts to ensure that the Language Line service is readily available at all service locations and in the field.²⁵ Further, it should evaluate the effectiveness of its online language translation services as language assistance tools, especially in comparison to Language Line and its VLP.

²⁴ The Department also emphasizes that it is a common practice for these field technicians to store a reserve dual handset telephone at each location, which provides uninterrupted access to Language Line if a primary telephone becomes inoperable.

²⁵ In response to these recommendations, the NYPD "has directed our Quality Assurance Division (QAD) to begin inspecting our point of service facilities to ensure the multi-language interpreter available signs are visible and the dual handset telephones are present and functional, in addition to the monthly checks performed by our Telecommunications Unit." NYPD Response to Draft Compliance Review Report, App. at 5. The NYPD will also revise Procedure No. 212-90 to "mandate that patrol supervisors have access to Language Line service from the field." *Id.* The Department's Patrol Borough Investigations Unit will ensure that patrol supervisors comply with the revised directive. *Id.*

B. Internal Language Resources

1. VLP

a. Program Overview

Since 2002, the NYPD has provided language assistance to LEP persons through its VLP. The Department's Chief of Personnel administers the human resource aspects of the Program, while the Operations Division deploys interpreters in response to requests for assistance. The VLP consists of sworn and civilian Department personnel who volunteer to serve as interpreters or translators. LAP at 6. The Program has two types of participants: those who are certified according to their proficiency for reading, speaking, and writing a foreign language; and personnel who self-report some degree of foreign-language ability (but who are not tested or otherwise certified). NYPD Response to Data Request No. 14; *see also* LAP at 6. Generally, commanding officers interviewed by the OCR are familiar with the number of sworn and civilian personnel in their units with certified or self-identified foreign-language ability, as well as the specific languages in which those personnel could communicate.

b. Certified Participants of the VLP

In describing the Program, the NYPD emphasizes its certification component, which enhances the Department's ability to communicate with LEP communities while addressing its criminal and intelligence needs. Procedure No. 212-90 at 3. The VLP is not open to all sworn and civilian employees who want to become certified in any foreign language. Instead, the NYPD certifies personnel based on several factors, including the specific foreign-language needs of its Intelligence Division and other critical units. For calendar year 2010, the Intelligence Division identified and prioritized fifty-one key languages for which it needed additional language assistance. In addition to these designated languages, the NYPD added thirteen priority languages.

The Department primarily relies on the Berlitz Language Center (Berlitz) to administer the language certification tests.²⁶ NYPD Response to Data Request No. 14. When Berlitz has an insufficient number of instructors in a particular language, the Department relies on the Federal Bureau of Investigation's Language Services Section to test interpreter candidates. The NYPD also contracts with Geneva Worldwide (Geneva) to provide language support and training for the VLP. The Department does not have a recertification requirement for certified participants of the Program. The NYPD adds a volunteer's skill level to his or her personnel record, which is available to the Operations Division in determining whom to assign in a specific situation. *Id.* The Operations Division also maintains two databases reflecting the language proficiency of certified Department personnel: (1) the Personnel Mainframe Database, which includes basic information about certified interpreters and translators, and (2) the Personnel Bureau Language

²⁶ The test consists of a scale of ten proficiency categories (defined as Beginner, Social, Social+, Functional, Functional+, Intermediate, Intermediate+, Professional, Professional+, and International); to be considered a qualified interpreter, an individual must demonstrate proficiency at or above the Intermediate level.

Proficiency Database, which includes more detailed information about certified personnel and their duty assignments, as well as proficiency data regarding their speaking, reading, and writing skills in their tested foreign language. Procedure No. 212-90 at 3.

As of March 2010, the VLP consisted of 764 certified participants who collectively communicated in fifty-nine languages.²⁷ For the six most frequently encountered languages that the DCP identified, the following table shows the number of certified interpreters in the Program:

NYPD Volunteer Language Program Table of Frequently Encountered Languages	
Language	Number of Certified Employees
Spanish	12
Chinese	
- Cantonese	65
- Mandarin	31
- Fujianese	14
Creole	33
Russian	56
Korean	29
Italian	12

NYPD Response to Data Request No. 15. Upon initial review, the number of NYPD certified interpreters for each of the languages listed in the above table appears to fall significantly short of the need for interpreters for the corresponding large LEP populations in the City (i.e., according to the DCP, substantial numbers of LEP persons in the City speak Spanish (920,987 persons), Chinese (280,264 persons), Russian (131,050 persons), Korean (51,993 persons), French Creole (46,684 persons), and Italian (43,018 persons)).²⁸ Despite the relatively small numbers of certified interpreters in these six languages (e.g., there is one certified interpreter for every 76,748 Spanish-speaking residents), the NYPD has a significant number of personnel who are certified to provide language assistance in Urdu (68 employees) and Arabic (63 employees). NYPD Response to Data Request No. 15.

²⁷ In providing information about the number of certified participants in the Program, the NYPD included fifteen American Sign Language interpreters. Because the instant Compliance Review focuses on the provision of services to individuals who are LEP because of their national origin – and not because of a disability – the OCR's Report does not address the Department's ability to communicate with persons who are deaf or hard of hearing.

²⁸ New York City Dep't of City Planning, *Language Access*, <http://www.nyc.gov/html/dcp/html/about/language.shtml> (last visited Nov. 4, 2010) (citing 2008 ACS data to summarize LEP populations, based on language spoken at home by persons who are ages five and older).

c. Non-Certified Participants of the VLP

In addition to certified personnel, the NYPD includes in its Program employees who self-report that they have some degree of foreign-language ability. The Department does not verify whether these individuals are in fact qualified to provide any assistance in a language other than English. Largely because of this group of persons with self-identified language ability, the Department can assert that, as of April 2009, the VLP had approximately 14,000 registered participants (LAP at 6), which includes certified personnel. Because of the inclusion of these additional participants in its Program, the NYPD's formal interpreter and translator corps consists largely of employees who have not been tested in any way regarding their degree of foreign-language proficiency.

2. Public Safety Answering Center Spanish-Language Interpreters

In addition to its VLP, the NYPD administers a Spanish-language training program for certain Public Safety Answering Center (PSAC) call-takers (alternatively called operators). During the application process for call-taker positions, applicants can self-report their Spanish-language skills. Once hired, these self-identified bilingual employees provide interpretation services in Spanish, although they do not receive any pay premium for using their language skills. Before these call-takers begin fielding calls, they receive the same training provided to all other police communication technicians as well as five days of training about communicating with Spanish-speaking callers. While this additional training curriculum seeks to cover basic information about the Spanish language that may be helpful to call-takers, it does not review any of the broader obligations that apply to all interpreters, such as those related to ethics. As of June 2010, there were twenty-six operators who completed the additional training and ostensibly could communicate with Spanish-speaking callers. If a bilingual call-taker cannot understand a Spanish-speaking caller, he or she can access Language Line for interpretation assistance, although a command staff representative told the OCR that such situations rarely occur.

3. Recognition for Employees with Foreign-Language Ability

Employees with foreign-language abilities do not receive additional compensation or benefits because of those skills, although the NYPD gives career point credit to certain uniformed members who use foreign-language skills to assist the Department. Under this Career Program, which is aimed at members of the service in the ranks of police officer and detective specialist, if those personnel serve as certified interpreters or translators during the course of a year, they receive one career point. *See* Interim Order, Revision to Patrol Guide 205-15, Police Officer's Career Program, at 1, 4 (June 30, 2009). According to established NYPD policy, when commanding officers conduct performance appraisals, they should ensure that personnel receive recognition for using their language proficiency as members of the VLP. *See* Procedure No. 212-90 at 4; Procedure No. 205-48, Patrol Guide, Evaluations – General – Members of the Service, at 4 (June 20, 2008); Interim Order, Revision to Patrol Guide 205-48, Evaluations – General – Members of the Service, at 4 (Nov. 12, 2009). A member with an excellent service record can transfer to a more desirable specialized unit or assignment once he or she has accrued

a sufficient number of career points. Despite the availability of these career points, based on its interviews with various police officers, the OCR questions whether officers are generally aware of this benefit and whether supervisors award appropriate points to certified personnel during their annual performance reviews.

Recommendations

The NYPD clearly recognizes the need to identify and rely on the foreign-language skills of its personnel in communicating with LEP persons in its service population. In many instances, the Department has improved its ability to serve language-minority communities through its VLP and PSAC Spanish-language call-taker program. The Department, however, should use these resources to provide more effective oral language assistance to LEP individuals. As to both programs, the Recipient should ensure that participants (1) receive training about the skills, ethics, methods, and substance of interpretation in different contexts (DOJ Guidance, 67 Fed. Reg. at 41,456), and (2) remain qualified to provide language assistance.

With respect to the VLP, the Recipient should also encourage all personnel with foreign-language abilities to become certified participants. Recipients must undertake quality control measures to ensure the accuracy of the direct communication and interpretation services provided by their bilingual employees. *See id.* at 41,461. 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 in another language, relying on an employee's self-identification of bilingual competency is not an appropriate method for assessing an individual's ability to interpret. While the OCR recognizes that the NYPD's operational needs may warrant an emphasis on certified interpreters of certain languages, the Department also should increase the overall number of certified personnel who can communicate in the languages frequently encountered in individual point-of-service locations. Ultimately, for interactions with LEP persons that do not involve external language resources like Language Line, the Department's goal should be to expand its reliance on certified interpreters and to minimize its reliance on staff members who are not certified. To encourage more personnel to consider certification, the NYPD may wish to emphasize the existing career benefits of certification and explore the feasibility of offering new benefits, such as additional compensation, to sworn and civilian personnel who are certified interpreters or translators.²⁹

In reviewing the PSAC interpreter program, the NYPD should consider the benefits of hiring call-takers who are fluent in languages other than Spanish, especially given the growing diversity of the City's LEP populations. Because of the critically important nature of the emergency services provided to the public through the PSAC, which requires prompt and accurate assistance, the Department also should confirm that the PSAC uses appropriate quality control measures to monitor its interactions with Spanish-speaking individuals. Specifically, the

²⁹ The OCR recognizes that the NYPD is a party to collective bargaining agreements and, as such, may have a limited ability to modify, on a unilateral basis, elements of compensation that may be paid to members of collective bargaining units. In negotiating future contracts, however, we urge the Department to consider including language-related incentives in any package of proposed bargaining items.

Department should ensure that all identified PSAC bilingual call-takers are in fact qualified to provide language assistance during calls with LEP persons that, because of the nature of the interaction, may be difficult to navigate. One way to ensure that these call-takers are qualified to interpret may be to require them to become certified through the same testing process that exists within the VLP.

C. Types of Encounters Between NYPD and LEP Persons

This section of the Report evaluates the NYPD's efforts to provide language services to LEP persons in specific contexts. During the OCR's Compliance Review, we sought to evaluate how the NYPD provides services to LEP persons in connection with (1) emergency calls, (2) field encounters, (3) victim assistance, (4) custodial interrogations, (5) detention, and (6) complaints against members of the service.

1. Emergency Calls

The NYPD's Communications Division provides emergency assistance to 9-1-1 callers through its PSAC. Each year, the PSAC handles approximately 12,000,000 calls (approximately 30,000 calls each day). In handling calls from LEP persons, the PSAC distinguishes between Spanish-speaking callers and those speaking other languages.³⁰ If a caller speaks Spanish, one of the PSAC's Spanish-language call-takers may field the call. If a Spanish-speaking call-taker is unavailable or if the caller speaks a foreign language other than Spanish, the PSAC relies on Language Line to provide interpretation assistance. In those instances, the call-taker uses a "quick key" on his or her telephone pad to create a three-way conference call with Language Line. The Language Line operator answers the call within four seconds, identifies the language spoken by the caller, and transfers the call to an appropriate interpreter. Once the 9-1-1 call-taker and the interpreter exchange identification numbers, the interpreter assists the call-taker in obtaining details from the LEP person about his or her emergency. When call-takers use Language Line, they document the specific language need and enter a code in the PSAC database denoting reliance on the interpretation service; a dispatcher relies on this summary information in seeking officer assistance. Next, the call-taker transfers the call to dispatch and may remain on the call until a dispatcher deploys an officer to the scene.

2. Field Encounters

In December of 2006, the NYPD issued a procedure explaining how a member of the service should provide language assistance to an LEP person in the field. Procedure No. 212-90, Patrol Guide, Volunteer Language Program/Language Line (Dec. 22, 2006). Under the procedure, a member should follow a four-step process to secure language assistance:

³⁰ More than seventy-five percent of the PSAC's LEP calls involve Spanish speakers.

- An officer should rely on a member of the service who is an interpreter or translator and who is readily available. The procedure does not define or describe the terms “interpreter” or “translator.”³¹
- Assuming that a member with language ability is not readily available, the member should contact his or her supervisor to rely on the supervisor’s Language-Line-equipped cell phone. If the supervisor is available, he or she should respond to the scene and assist in providing interpretation assistance through Language Line.
- If the supervisor is not readily available, he or she should request an interpreter or translator through the Operations Division. In responding to a request for assistance in the field, the Operations Division searches its Personnel Bureau Language Initiative Database to determine who is qualified to provide language assistance, contacts a qualified member of the service about the matter, and instructs him or her to call the on-scene supervisor to ensure that the language skills of the identified interpreter or translator are sufficient.³²
- If the identified member is not qualified, the supervisor should ask the Operations Division to provide another interpreter or translator.

During the OCR’s April 2010 onsite visit, it learned that many command staff and patrol officers understand the basic protocol outlined in Procedure No. 212-90. Of the point-of-service locations evaluated by the OCR, representatives at seven of twelve precincts, two of two transit districts, and two of three housing PSAs displayed a sufficient understanding about how to secure language assistance in the field. In the other areas, personnel lack adequate familiarity with the steps outlined in Procedure No. 212-90, including the requirement that a member rely on the Operations Division to send a qualified interpreter.

While there is a general awareness among staff regarding the proper procedure to follow in securing language assistance in the field, there is less recognition among commanding officers about the importance of relying on qualified personnel to provide language assistance. Under NYPD policy, in making assignments that may require reliance on language proficiency, a

³¹ In its Response to the OCR’s Data Request and in its LAP, the NYPD explains in more detail the factors that a member should consider regarding how to provide language assistance during field encounters. In those materials, the Department notes that the highest-ranking member of the service on the scene considers the totality of the circumstances, including the language required, the availability of a live interpreter, and the exigency of the situation, to determine whether to use Language Line or a live interpreter. NYPD Response to Data Request No. 10; LAP at 2.

³² In selecting a qualified interpreter or translator, the Operations Division seeks to identify an on-duty certified interpreter or translator within the precinct or, if no certified interpreter in the precinct is available, within the borough. The Department only dispatches an officer with self-identified foreign-language ability if no certified member is available. In an emergency situation, the Operations Division can authorize overtime or the deployment of an off-duty officer; in routine or non-emergency situations, the duty captain or commanding officer of the requesting supervisor must authorize any request that will result in overtime or the recall of an off-duty officer.

supervisor should determine whether the officer is qualified to provide interpretation or translation assistance. Procedure No. 212-90 at 3 (emphasizing that unit commanders should consider an individual's certification or qualification status "whenever members are utilized to translate or interpret"). Ultimately, a supervisor should seek to rely on the foreign-language skills of those personnel who "have attained passing scores under the Language Initiative Certification Tests." *Id.* Indeed, a supervisor may only rely on non-certified personnel after determining that no certified member is available. Despite these instructions regarding the importance of relying on certified interpreters and translators, interviews with various commanding officers revealed that they generally do not prioritize certified interpreters over others in ensuring that LEP persons in the field receive language assistance.

There is also confusion among members about who is a qualified interpreter or translator. Some patrol officers, in interacting with LEP persons, either rely on their own, limited foreign-language proficiency or seek assistance from personnel who may not be participants in the VLP, which makes it difficult to ensure that LEP persons consistently receive competent language assistance. Various officers note that they frequently rely on bystanders to interpret for them and would rely on such individuals in any type of situation. Officers also may seek interpretation assistance from family members, even though the NYPD's in-service training curriculum limits reliance on such persons as a language resource. *See* Compliance Review Report, *infra* Part VIII.B.

3. Victim Assistance

a. General Observations

In its LAP, the NYPD notes that obtaining language assistance for crime victims "is the most important language access service the Department provides for citizens." LAP at 4; *see also* NYPD Response to Data Request No. 20; NYPD Response to Draft Compliance Review Report, App. at 1 ("When a person becomes the victim of a crime or needs police assistance, we will obtain assistance to communicate in the language the person speaks, whether Spanish or Swahili."). To assist LEP victims, the NYPD adopted policy language in 2000 stating that, when an LEP person seeks to file a crime report, an officer should obtain interpreter assistance through the Operations Division. Procedure No. 207-07, Patrol Guide, Preliminary Investigation of Complaints (Other Than Vice Related or Narcotics Complaints), at 6 (Jan. 1, 2000). This language, which has not been updated since it was initially adopted, does not appear to reflect current Departmental expectations about how sworn or civilian personnel should proceed in interacting with LEP persons. In fact, during the OCR's site visits, it interviewed several NYPD employees who described a process for communicating with an LEP victim that focuses on Language Line and does not involve the Operations Division.

b. Assistance to LEP Domestic Violence Victims

During its interviews with various community representatives, the OCR received negative information about the NYPD's handling of domestic violence incidents and reports involving

LEP victims. Because of these articulated concerns, the OCR specifically evaluates how the Department provides language services to LEP domestic violence victims.

According to several attendees at the OCR's community meetings, victims in the field do not feel comfortable reporting domestic violence complaints to the police and are concerned about whether their complaints will be understood or taken seriously. For instance, according to some community representatives, in responding to a domestic violence call involving an LEP female victim and an English-speaking male aggressor, a patrol officer may simply rely on the male offender's version of the relevant circumstances, rather than interviewing the victim through a qualified interpreter. Then, solely based on the offender's statements, the officer may conclude that no further interviews are necessary, that the complaint is baseless, and that no Domestic Incident Report (DIR) should be filed.³³ During the OCR's interviews with uniformed members, officers did not suggest that they rely on an alleged perpetrator to interpret for a victim. The OCR did learn, however, that patrol officers, in interacting with domestic violence victims in the field, do not consistently rely on qualified interpreters to provide language assistance. Despite ostensibly learning from the NYPD that family members should not be used as interpreters,³⁴ several uniformed members noted to the OCR that they relied on children to provide interpretation assistance in connection with domestic violence incidents.

The OCR also received information from community members, which it corroborated with NYPD personnel, that several precincts do not provide adequate language assistance to domestic violence victims seeking to file a DIR. When victims report incidents of domestic violence, officers complete a DIR.³⁵ As described by one commanding officer, the DIR is distributed to the complainant, the point-of-service location where the report was prepared, and the NYPD's central Domestic Violence Unit, which is located at Headquarters. Information from the form is also entered into a complaint-tracking database. On the second page of the form, which contains text in English and Spanish, LEP victims presumably can write a statement of allegations in their primary language. According to several community representatives, personnel may not accurately transfer foreign-language statements or other information from the DIR into the NYPD's database that tracks complaints, which could hamper the ability of the Department to pursue the matter. In discussing the DIR and its victim statement section with NYPD personnel,

³³ Mindful of the NYPD's desire to address and resolve specific claims that personnel failed to adhere to Department policy, we emphasize that, by meeting with community representatives, the OCR sought to assess community perspectives on NYPD operations and to identify perceived concerns with police procedures, which may affect a person's willingness to seek police assistance in certain situations. Given these limited objectives, the OCR did not consider the factual or legal merits of any anecdotal reports regarding alleged improper police practices and did not share information about any such assertions with the Department. Moreover, as a result of governing Privacy Act protections, in the context of conducting compliance reviews, the OCR routinely declines to provide recipients with detailed information about individual allegations of misconduct, although we certainly acknowledge the Department's frustration in being unable to follow up on any such claims.

³⁴ See NYPD, *Commander Level Instructor's Guide, Limited English Proficiency*, at 4 (2009) (emphasizing that "all steps should be taken to avoid using a child as an interpreter to gain facts from the offender or victim").

³⁵ The New York State Division of Criminal Justice Services created the DIR form reviewed by the OCR.

the OCR received varying accounts about how sworn and civilian staff members complete it. Several officers encourage victims to submit statements in their primary language, but locations handle foreign-language statements in different ways: at one station, a bilingual officer may translate the statement into English for clerical staff persons as they type the English version into the database; at another location, clerical staff may type into the database a verbatim recitation of what the LEP person wrote in the LEP person's primary language. Other officers, however, prepare the statements in English and discourage LEP victims from submitting statements in their language.

4. Custodial Interrogations

The NYPD has a policy that seeks to ensure that LEP adult and juvenile arrestees who will be interrogated understand their Fifth and Fourteenth Amendment rights under the U.S. Constitution. Pursuant to its patrol guide protocol, if an LEP criminal suspect is in custody, a uniformed member of the service should request an interpreter through the Operations Division to ensure that the individual understands his or her *Miranda* rights. Procedure No. 208-09, Patrol Guide, Rights of Persons Taken Into Custody, at 1 (Jan. 1, 2000). Despite this instruction about obtaining language assistance, several NYPD representatives suggested to the OCR that personnel may not necessarily request an interpreter through the Operations Division in connection with administering *Miranda* warnings or interrogating arrestees. Several NYPD representatives stated that officers or detectives who have self-identified language ability, but who are not certified by the NYPD, may give *Miranda* warnings to LEP arrestees. In describing how this process works for Spanish-speaking LEP persons, one detective gave the OCR a copy of a document entitled Interrogation Warnings to Persons in Police Custody that contains *Miranda* warnings in English and Spanish.³⁶ The detective explained that these warnings would be administered by a Spanish-speaking detective (but not one deployed by Operations); for other languages, a detective could request an interpreter from the Operations Division. In discussing custodial interrogations with several NYPD officials, the OCR also received information that detectives may interview LEP suspects with the assistance of personnel who are not certified interpreters and who are not deployed by Operations.

5. Detention

The NYPD uses prisoner holding cells in several precincts, transit districts, and housing PSAs. After an arrestee is processed at a point-of-service location, an officer may temporarily place him or her in one of these cells. When officers process an individual, they prepare by hand a document called a prisoner movement slip, which includes basic pedigree information about the arrestee. The slip lacks a data field addressing an arrestee's language proficiency, although, in some cases, an officer may document a person's LEP status in a general comment box at the bottom of the form. The slip and the individual's arrest report, which includes information about

³⁶ The OCR did not receive any version of this document translated into other languages, such as Chinese, Korean, French Creole, Russian, or Italian.

an arrestee's LEP status, follows the arrestee throughout the criminal justice system.³⁷ Next, officers generally take arrestees to a central booking location, where they await their initial court appearance. Usually, this period of detention lasts less than twenty-four hours.

a. Provision of Oral Language Assistance

The NYPD does not have a clearly communicated policy, procedure, or protocol for providing oral language assistance to LEP persons in its custody. Rather, in its procedure regarding general processing, the Department merely suggests in a note that “[w]hen a prisoner and/or parents/guardians of a juvenile do not understand English, . . . the services of an interpreter may be obtained by contacting the Operations Unit.” Procedure No. 208-03, Patrol Guide, Arrests – General Processing, at 1 (Jan. 1, 2000). During the OCR's onsite interviews, there appeared to be confusion among command and line staff about how to provide interpretation assistance to LEP detainees, which may be explained by the absence of a formal protocol governing the provision of language assistance in this context. For instance, officers did not consistently explain when they must obtain language assistance through a certified interpreter, as compared to those situations where they are permitted to seek interpretation assistance from other sources. In one notable example of a departure from the Department's policy for obtaining a qualified interpreter, a commanding officer explained that he used his own fiancée to interpret for him in communicating with an LEP prisoner. According to the official, it was quicker and easier to rely on her than to ask Operations to send a certified interpreter.

b. Provision of Written Translation Assistance

The NYPD posts several English- and Spanish-language signs in its holding cells, which provide information to arrestees about property removed from them, the average time between arrest and arraignment, the pre-arraignment process, meal times, access to water, and sanitary supplies for females. Despite the DCP's designation of Chinese, Korean, French Creole, Russian, and Italian as frequently encountered languages, the Department has not translated these signs into those languages.

6. Complaints Against Members of the Service

To initiate a complaint against a uniformed member, a person may (1) contact the Civilian Complaint Review Board (CCRB or Board),³⁸ which may refer the complaint to the Department; (2) communicate with personnel at a point-of-service location, such as a precinct, transit district, or housing PSA, or any other NYPD office (including the Office of the Police Commissioner or

³⁷ The NYPD enters information from the slip into a database; officers with subsequent contact with an arrestee can amend the electronic version of the form to include additional information about the individual.

³⁸ The CCRB is an independent mayoral agency that has the authority to receive, investigate, and issue findings and recommendations to the NYPD about complaints against Department officers that allege the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language. The Board issues its findings to the Police Commissioner.

office of a deputy commissioner); (3) place a 9-1-1 call, which is referred to the NYPD's Internal Affairs Bureau (IAB or Bureau) Command Center; or (4) directly contact the IAB Command Center. If a person elects to file a complaint directly with the Department, a person may lodge it in person or by letter, e-mail, or telephone.

The NYPD distinguishes between two types of allegations against a member of the service: (1) Misconduct Complaints; and (2) Corruption Complaints. The IAB directly investigates all Corruption Complaints. The Department refers certain Misconduct Complaints, including those alleging unnecessary use of force, abuse of authority, discourtesy, offensive language, failure to perform duty properly, and unwarranted traffic summons, to the CCRB. For those Misconduct Complaints that are beyond the jurisdiction of the Board, such as an officer's alleged failure to take a report or inconsistent application of the law, the IAB may directly investigate the allegations or assign the complaints to investigative units within individual patrol boroughs where the alleged misconduct occurred.

a. Provision of Language Assistance to Complainants at Point-of-Service Locations

The NYPD does not address, in its LAP or elsewhere, the protocol for providing language assistance to members of the public who wish to file a complaint against an officer. As a result, the degree of language assistance provided to an LEP complainant by the Department largely depends on which Department unit receives the complaint. When an individual seeks to file a complaint in person at a specific point-of-service location, a supervisor completes a Civilian Complaint Report (CCR), which directs the complainant to submit, in his or her handwriting, information about his or her allegations. Presumably, an interpreter can assist the LEP person (indeed, the form contains a field requesting the name of any interpreter); however, the OCR received differing accounts about how this form is actually completed when a complainant is LEP. One commanding officer suggested that, to protect the integrity of the investigation, the supervisor preparing the CCR should not rely on a sworn or civilian member of the service at the point-of-service location to provide language assistance. Instead, he or she should ask the Operations Division to send an interpreter to assist an LEP complainant. Another commanding officer noted that the supervisor should seek interpretation assistance from Language Line or from another, bilingual supervisor. In at least one location, officers do not ordinarily accept complaints against police officers from LEP persons; instead, they use Language Line to ask the LEP person to send the complaint to the CCRB.

b. Provision of Language Assistance to Complainants During IAB-Initiated Investigations

The NYPD routinely receives complaints involving LEP complainants or witnesses. In its Response to the OCR's Data Request, the Department listed 357 pertinent complaints against members of the service from January 1, 2009, through March 10, 2010, that required the Recipient to provide interpretation or translation services. To identify these complaints, the NYPD ran various keyword searches (i.e., "translate," "Language Line," and "interpret") through

IAB log narratives, which are created by the Command Center for every complaint. As a result of this search methodology, the Department's list may be underinclusive because it does not identify complaints where language assistance was (1) provided but not noted in a log narrative or (2) described in a way that was not captured by the particular keywords used.³⁹ To ensure that the list was not also overinclusive, an officer reviewed the files that were retrieved by the keyword searches to confirm that the matter involved an LEP person (instead of, for instance, an unrelated complaint involving a person who may "interpret" a comment as an insult). In approximately seventy-five percent of the identified complaints, the NYPD provided language assistance in Spanish. The second and third most commonly encountered languages were Chinese/Chinese dialects and Russian, although, combined, these languages only accounted for approximately eight percent of the complaints.

During the Compliance Review, the OCR requested copies of the IAB complaint files that the NYPD identified as requiring the provision of language assistance. Initially, the NYPD declined to provide these materials. As a result of subsequent discussions between the NYPD and the OCR, the Department agreed to permit the OCR to conduct an onsite inspection of ten unsubstantiated complaint files selected by the Recipient.⁴⁰ On June 8, 2010, the OCR reviewed these files, which provide a more detailed glimpse of how the Department provides language assistance to LEP persons in connection with its IAB complaint investigations.

The NYPD provides minimal policy guidance about how IAB personnel or investigators should communicate with LEP persons.⁴¹ Under established Department policy, when the IAB receives a complaint from an LEP person, an IAB investigator should use Language Line or a member of the service to interview the LEP complainant; however, the Department does not explain whether the NYPD interpreter should be certified or if the investigator should rely on these language

³⁹ The NYPD is developing a new Electronic Case Management System that may enable the Department to statistically track information about when interpretation or translation services are provided to complainants and witnesses. NYPD Response to Draft Compliance Review Report, App. at 11.

⁴⁰ During the OCR's April 2010 onsite visit to the NYPD, counsel for the Department informed the OCR that, based on counsel's interpretation of state and local law, the NYPD would not make available the information related to internal complaints that the OCR requested. As the focus of the Compliance Review is on how the NYPD provides language services, the OCR explained that its interest in the complaint files is limited to determining how well the Department processes complaints that require the assistance of interpreters and translators; the underlying circumstances of the complaints are not relevant to the OCR's inquiry. While onsite, the OCR offered to modify its Data Request in the following way: to limit the document request to the files of ten unsubstantiated complaints and to allow the NYPD to redact information from the complaint files that could lead to disclosure of the identity of any officer who was the subject of a complaint (i.e., omitting the officer's name, the name of the officer's supervisors, the name of the officer's work station, the name of the complainant, and the names of witnesses). The OCR also offered to inspect the requested documents on site, if doing so would address the Department's concerns related to releasing electronic or hard copies of case files. The NYPD subsequently agreed to permit the OCR to review the requested materials at its IAB offices.

⁴¹ The NYPD is updating its written procedure to provide additional information to personnel about providing language assistance in the context of handling complaints involving LEP persons. NYPD Response to Draft Compliance Review Report, App. at 11.

resources in a particular order.⁴² Procedure No. 620-01, Internal Affairs Bureau Guide, Intake of Corruption Allegations, at 2 (July 1, 1994). The IAB has a poster in its Command Center that explains how to access and use Language Line. It also relies on a second document, entitled Training Etiquette, to review the telephonic interpretation service, although the guide references outdated usage instructions. Based on the contents of several complaint files reviewed by the OCR, IAB personnel are aware of and can access Language Line.

In several of the complaints reviewed by the OCR, PSAC and IAB personnel could have provided more effective oral language assistance to LEP complainants. As an example, in one matter, a Spanish-speaking LEP person called 9-1-1 to lodge a complaint against an officer. When the 9-1-1 operator, who represented herself as bilingual in Spanish, transferred the call to the IAB Command Center, she agreed to interpret for the IAB intake officer. During the call, however, the 9-1-1 operator asked questions without being prompted by the intake officer (and without explaining to the intake officer what precisely she asked) while the intake officer sought to communicate directly with the complainant in Spanish. In another matter involving similar reliance on a designated bilingual 9-1-1 operator to interpret for an IAB intake officer, the operator engaged in an unprompted dialogue with the complainant in Spanish and then merely summarized the content of the conversation for the intake officer at the end of the call. Occasionally, investigating officers also appeared to disregard or overlook information about a complainant's documented LEP status by attempting to conduct interviews with them in English. The DOJ does not recognize these approaches as best practices for providing interpretation assistance.

The NYPD does not consistently provide effective written translation assistance to LEP complainants and witnesses. In reviewing the complaint files, the OCR discovered that investigating officers may send English-only correspondence to LEP complainants. The IAB also does not use standardized forms or correspondence in communicating with complainants and witnesses about frequently encountered issues. Instead, individual units rely on their own documents. For example, if a complainant wishes to withdraw a complaint, the NYPD requires him or her to do so in writing. Rather than having one Department-wide withdrawal form that can easily be translated into various languages, different investigating units within the IAB or patrol boroughs may create separate withdrawal documents.⁴³ Such a disjointed approach makes it cumbersome for the NYPD to satisfy its obligations to ensure that vital documents related to the IAB process are accurately translated into appropriate languages. *See* Compliance Review Report, *infra* Section X.A.

⁴² Despite the NYPD's policy that an investigator may ask a member of the service to serve as an interpreter, an IAB official informed the OCR that the Bureau generally does not want to rely on officers to provide language assistance because they may be implicated in a complaint.

⁴³ The OCR received a Complaint Withdrawal Statement from one unit within the IAB that has not been approved by the Department and is only available in English. The NYPD "will create a standardized form to record instances where a complainant chooses to withdraw a previously filed complaint. This document will be translated into the most frequently encountered languages and made available for use by the Internal Affairs Groups and Borough/Bureau Investigations Units." NYPD Response to Draft Compliance Review Report, App. at 12.

Recommendations

Overall, it is clear to the OCR that the NYPD and its command staff are committed to providing effective language assistance to LEP persons in the City. One commanding officer, in fact, pointedly observed that it is a travesty if the Department fails to provide language services to an individual. Through measures such as its procedure for providing language assistance in the field, the Department seeks to provide guidance to front-line personnel about interacting with LEP persons. Despite the NYPD's demonstrated efforts to serve its LEP communities, it can provide even more effective services to those groups. It should revise its LAP to address how the Department provides language services to LEP persons during various interactions, including those that occur in connection with emergency calls, field encounters, victim assistance, custodial interrogations, detention, and complaints against members of the service.⁴⁴ It also should revisit its written policies, such as Procedure Nos. 212-90, 207-07, 208-09, 208-03, and 620-01, to determine how they may be revised (1) to describe the Department's current process for providing oral and written language services, and (2) to better assist employees in evaluating whether and how to obtain language assistance from qualified bilingual employees, Language Line, or other identified sources, such as family members, friends, or bystanders.⁴⁵

VIII. Training

This section of the Report discusses the training provided by the NYPD to cadets, uniformed members, and civilian personnel regarding its procedures for providing language services to LEP persons.

A. Academy Training

During the NYPD's police academy, the Department provides instruction to cadets about various topics involving language access, including the VLP, community outreach resources, and protocols for communicating with LEP persons. Often, the training materials cover information about tools and practices that are not included in any written NYPD policy or procedure. For instance, in reviewing resources that are available to communicate with LEP persons, one training guide includes information about (1) a Language Identification Card, which is prepared by Language Line and assists in identifying an LEP person's primary language; (2) the NYPD's dual handset Language Line phones; and (3) an activity log insert entitled *Compilation of Spanish Phrases (With Self-pronouncing Phonetic Spelling)*. NYPD, *Recruit Officer Handbook, Police Student's Guide: Policing a Multicultural Society*, at 20-21 (Jan. 2010). The Department

⁴⁴ The NYPD will revise its LAP "to provide better guidance to members of the service in determining if it is appropriate to use a non-certified member of the service or a member of the public to translate and when a certified interpreter or Language Line must be used." NYPD Response to Draft Compliance Review Report, App. at 12.

⁴⁵ The NYPD has already agreed to "explore and evaluate options regarding the standardization of entering information from Domestic Incident Reports that is written in languages other than English into the Domestic Violence database." *Id.* at 9. The Department will also "develop a policy regarding the use of translators during interrogations that will provide guidelines addressing when a certified translator should be used." *Id.* at 10.

does not address the availability of these resources in any policy or procedure.⁴⁶ The training materials also caution recruits about relying on family members to serve as interpreters:

If an interpreter is not available, it is not advisable for a police officer to use a family member to communicate because of potential impartiality due to the fear of a family member or other personal bias. Children should not be used as an interpreter except in an extreme emergency. Victims are more likely to respond openly and honestly if an impartial party translates.

NYPD, *Police Student's Guide: Domestic Violence*, at 10 (July 2009) (emphasis in original). As previously noted, the NYPD's procedures for communicating with LEP persons do not follow these recommended practices. See Compliance Review Report, *supra* Section VII.C.2.

B. In-Service Training

Patrol officers assigned to precincts, transit districts, and housing PSAs receive daily roll-call training at the beginning of each shift.⁴⁷ Each point-of-service location maintains a log book that includes information about who attends each training session.⁴⁸ A separate quality assurance unit within the NYPD periodically reviews these logs to ensure that personnel received training about specific topics. Training sergeants at each point-of-service location provide the requisite training. To ensure that they provide consistent guidance to uniformed members about NYPD procedures, these trainers attend periodic borough meetings, where they receive information about specific training topics and lesson plans.

In September of 2009, the NYPD implemented a lesson plan for in-service training that specifically addresses how members of the service should communicate with LEP persons in the field and at command locations. As a result of this training, the Recipient expects that officers: (1) can identify a person's need for interpretation assistance and his or her language, (2) access Language Line, (3) are familiar with the VLP, (4) know how to interact with an interpreter, and (5) are aware of the Department's community outreach resources. As with the academy training, the in-service curriculum provides information about available language resources and recommended practices that is not covered by any written NYPD protocol. Specifically, the lesson plan appears to address the Language Identification Card discussed above, as well as the Department's dual handset Language Line phones. The NYPD also provides detailed guidance about ensuring that any interpretation provided is reliable, valid, and worthy of credence:

⁴⁶ The NYPD is revising Procedure No. 212-90 to include specific information about the Language Identification Card. *Id.* at 12.

⁴⁷ Police personnel in other units receive in-service instruction based on the work schedule of their unit.

⁴⁸ The NYPD does not maintain electronic records regarding employee training, although personnel files contain information about which training sessions employees attend.

It is not advisable for a police officer to use a family member to interpret because of potential impartiality due to fear of arrest of a family member or other personal bias. Interviewees are more likely to respond openly and honestly if an impartial party translates. The alleged offender should never be used as a translator. Allowing the offender to translate gives him/her control of the situation. As possible witnesses, children may also be interviewed; however, all steps should be taken to avoid using a child as an interpreter to gain facts from the offender or victim. Interviewees are not likely to be forthcoming if either the offender or a child is used to interpret and will be especially hesitant to reveal details of a sexual assault to a police officer through a child interpreter. Some words and concepts are difficult for children to understand, let alone translate into another language. Finally, as much as is possible, the victim and offender should be interviewed separately. Many victims will be reluctant to reveal details of the crime if the offender can overhear the statement.

NYPD, *Commander Level Instructor's Guide, Limited English Proficiency*, at 4-5 (2009).⁴⁹ These recommended practices are not included in the NYPD's procedures about communicating with LEP persons.

During its onsite interviews with commanding officers and uniformed members, the OCR received varying accounts about the frequency and content of training regarding the NYPD's language services. For example, training sergeants at various point-of-service locations appeared to provide training about the Department's language resources merely in anticipation of the OCR's April 2010 onsite visit. In one instance where the commanding officer addressed language services contemporaneously with our onsite review, he briefly addressed Language Line, acknowledged that the training was incomplete, and noted that training and implementation of the LAP would occur in the future. Further, officers often appeared only to be familiar with Language Line as an available language resource and, in many instances, conflated training on accessing Language Line with training on the larger subject of providing effective services to LEP individuals.

C. Training for Civilian Personnel

Civilian personnel often assist members of the public file crime, missing person, and accident reports, and enter information from reports into the Department's information databases. Despite their routine interactions with the public, including LEP persons, at the time of the OCR's April 2010 onsite visit, the NYPD did not have a comprehensive training program for appropriate

⁴⁹ In its Response to the OCR's Data Request, the NYPD also emphasizes that "[m]embers are instructed to use extreme caution when using family members for translation, especially during domestic incidents. Family members will be temporarily used for translation in domestic incidents only in life threatening situations when there is no other feasible alternative." NYPD Response to Data Request No. 20.

civilian staff that covered language access issues. In its response to the draft Compliance Review Report, the NYPD notes that school safety agents receive academy training about language access that is similar to the Department's training curriculum for police recruits at the academy. Only recently, however, did the Department implement entry-level training programs for other civilian staff members, including traffic enforcement agents and police administrative aides. The Department also provides ongoing training to civilian members about interacting with LEP persons at the command level. Despite this command-level training, civilian employees interviewed by the OCR lack a complete understanding of the Department's language resources and do not consistently provide language assistance to LEP persons they encounter. For instance, one staff member who handles criminal complaints noted that she is not sure whether it is her job to obtain an interpreter for an LEP person. When she encounters LEP complainants, she instructs them to come back and bring an interpreter with them.

Recommendations

The OCR commends the NYPD for developing robust written training materials for cadets and uniformed members that effectively address the Department's approach to language services. Going forward, the Department should revise its written policies, procedures, and protocols to incorporate the most critical elements of its training curricula, such as its guidance discouraging reliance on family members and prohibiting reliance on alleged offenders as interpreters. Once the Recipient makes pertinent policy changes, it should ensure that personnel receive adequate training about the proper procedures for providing language assistance services. The NYPD should provide to the OCR a complete set of the written training materials it has developed for civilian personnel regarding language access issues. It should also periodically confirm that appropriate civilian personnel receive adequate language-related training to ensure that LEP persons consistently receive effective assistance during their encounters with staff throughout the City.

IX. Community Outreach and Recruitment of Officers with Foreign-Language Ability

During the Compliance Review, the OCR evaluated how effectively the NYPD interacts with its community stakeholders, especially regarding issues involving the provision of language assistance. This section of the Report reviews the Department's community outreach and recruitment resources and initiatives.

A. Department-Wide Community Outreach Activities

1. Community Affairs Bureau's New Immigrant Outreach Unit

The NYPD has a Community Affairs Bureau (CAB) that collaborates with community groups and point-of-service locations throughout the City to improve police-community relations. One of the CAB's resources is its New Immigrant Outreach Unit (Unit), which, through two supervisors and six bilingual liaisons, serves as a link between the NYPD and immigrant communities. The Unit seeks to build and strengthen relationships with immigrant groups and

leaders, to inform immigrants and LEP persons about the NYPD's interpretation and translation services, and to coordinate and collaborate with other NYPD departments and City agencies to address specific immigrant concerns. At one of the OCR's community meetings (*see* Compliance Review Report, *supra* Section III.C.), attendees specifically commented on the beneficial role of the Unit and encouraged the Department to give it more resources.

The Unit engages in multiple, ongoing outreach activities. Its liaisons conduct periodic presentations, lessons, and lectures about NYPD policies, programs, and services that affect immigrant communities, including the provision of oral language services and the availability of translated material. Each month, the Unit conducts between fifteen and twenty of these sessions, which result in outreach to more than 3000 people each year. For instance, a representative of the Unit gave remarks at a community event in Queens that was part of Mayor Bloomberg's Immigrant Heritage Week, and which the OCR attended. In addition to these smaller scale activities, the Unit also sponsors twenty-four events each year that reach large groups of people in various immigrant communities; between 400 and 1000 people attend each event. It also regularly works with approximately 150 community and neighborhood groups that serve LEP populations.

2. Customer Satisfaction Survey

In an effort to evaluate how satisfied the public is with its services, the NYPD conducts two Citizen Satisfaction Surveys each year. The Department prepares a list of 8000 potential survey respondents by reviewing police reports filed during a designated three-month period. Police academy recruits administer the survey. In some cases, cadets with foreign-language ability have conducted surveys in non-English languages, including in Spanish, Polish, Mandarin, Cantonese, Bengali, French Creole, French, German, Italian, Korean, and Russian. According to the NYPD, the surveys reflect an aggregate positive satisfaction level of 87.1% among all respondents.

B. Point-of-Service Community Outreach Activities

In addition to the NYPD's Citywide efforts to engage members of different communities, individual point-of-service locations actively determine local needs and interact with various community constituencies. While the Department emphasized several of these activities in its Response to the OCR's Data Request, in one notable instance that we will discuss below, Headquarters officials may not have been aware of certain effective, longstanding outreach efforts that exist at the point-of-service level.

1. Precinct Briefing Books

During the OCR's April 2010 onsite visit, it learned for the first time that precincts prepare, on a periodic basis, community briefing books for the Police Commissioner's review, although there does not appear to be a Department-wide protocol for sending the reports to Headquarters. In one instance, the briefing book was routed to your office through a patrol borough's

commanding officer. In another case, the briefing book apparently was routed to your office through a patrol borough community affairs supervisor. Based on the two reports reviewed by the OCR, the reports endeavor to provide an overview of the precinct's service population and community resources. Both reports evaluate precinct demographics based on data from the U.S. Census Bureau and describe local community resources, strengths, and challenges. One report also specifically emphasizes the extensive national origin and language diversity among the precinct's residents.

2. Community Affairs Offices

The NYPD uses a vertical reporting structure for community affairs issues. For instance, individual precincts have community affairs offices that send reports to and participate in regular meetings at the patrol-borough level; these borough offices in turn provide information to the CAB at Headquarters. Designated community affairs officers at the point-of-service level attend community meetings, listen and respond to community complaints, work with community groups to arrange festivals and processions, and distribute periodic e-mails addressing community concerns. At one location, the community affairs office places foreign-language notices in local foreign-language publications about the availability of Language Line in reporting a crime or otherwise interacting with NYPD representatives. The Department also encourages local community affairs officers to distribute written materials to the public in the languages they encounter.

3. Community Council and Resident Council Meetings

Each NYPD precinct and housing PSA participates in community council and resident council meetings, respectively, which encourage direct communication between the police and community. During these regular meetings, the commanding and community affairs officers provide information to community members and respond to their concerns. During the OCR's April 2010 onsite visit, it attended a community council meeting in the Bronx Precinct No. 44. In the OCR's separate discussions with local constituencies, several community representatives commended various precincts for their active participation in the community council meetings and suggested that the Department make a renewed effort to invite more community groups and LEP residents to the meetings. Participants also urged the Department to proactively evaluate whether meetings in certain precincts should be interpreted in languages that are spoken by large numbers of language minorities (instead of merely reacting to a specific request for language assistance), which would encourage more members of those language groups to participate in the meetings.

4. Precinct No. 5's Reliance on Community Resources

In an attempt to strengthen its ties to the community, and in addition to engaging in the basic outreach activities of a typical precinct, Precinct No. 5 has collaborated for over thirty years with the Chinatown Project (Project), a nonprofit organization that provides various services to precinct residents, including Cantonese and Mandarin language assistance. As part of the

precinct's longstanding partnership with the Project, the nonprofit organization assigns six community relations aides to the Precinct No. 5 stationhouse to provide interpretation and translation assistance.⁵⁰ These aides do not go into the field to provide language services. Ordinarily, if an LEP person needs language services, the person will come to the station for help, or officers may bring an LEP person from the field to the station. Officers also may call aides from the field to provide interpretation services over the telephone. Every two weeks, the Project sends a report to the precinct's commanding officer summarizing the group's contributions to the precinct's community outreach efforts. For instance, the report covering a two-week period in March and April 2010 notes that the Project provided interpretation assistance in sixteen matters and gave translation assistance in two matters. This report may, in fact, underreport the group's activities – one representative of the program noted to the OCR that he provides language services approximately sixty times each week. Despite the extensive history of this project at Precinct No. 5 and its involvement in providing language assistance to members of the Chinatown community, the NYPD's Response to the OCR's Data Request does not provide any information about it, which suggests that, at that time, Headquarters may not have been sufficiently familiar with the laudable language services provided through this or other creative partnerships between point-of-service locations and community organizations.⁵¹

C. Recruitment of Officers with Foreign-Language Ability

1. Special Language Expertise Program

To increase its pool of potential recruits with foreign-language ability and to satisfy its growing need for bilingual officers, the NYPD Personnel Bureau, through its Recruitment Section, administers a Special Language Expertise Program that targets individuals with language ability. To reach a widely diverse group of applicants that are fluent in foreign languages, the recruiting initiative also works in conjunction with the Personnel Bureau's diversity recruitment program. The language and diversity recruitment teams collaborate with each other in conducting field recruiting, placing newspaper advertisements, and participating in targeted student recruiting.

a. Field Recruiting

The NYPD conducts extensive field recruiting to attract a diverse pool of candidates with language ability. The Department recruits at colleges in the City throughout the year, including every campus in the City University of New York system. Recruiters also attend approximately eighty job fairs each year throughout New York, New Jersey, and Connecticut. Often, these events are held at colleges, universities, military bases, and convention centers. The NYPD also sends representatives to precinct community council meetings, street fairs, music concerts,

⁵⁰ The Chinatown Project does not certify interpreters or translators, although, as part of the interview process for interpreter and translator candidates, the Project assesses their level of foreign-language proficiency.

⁵¹ Absent a site visit to Precinct No. 5, the OCR likely would not have learned about this long-standing precinct-level initiative or its significant positive impact on the community.

festivals, and parades.⁵² Recruiters also distribute materials about the Department at various transportation hubs, including Penn Station, Times Square, and subway stations located near City colleges; at area shopping malls; and at local sporting arenas. In conducting field recruiting, the NYPD distributes a flyer that encourages individuals with foreign-language abilities to apply and highlights several unique opportunities that may be available to bilingual officers.

b. Traditional and Online Outreach

In addition to its field outreach efforts, the NYPD utilizes various traditional media and online resources to recruit potential members of the service. The Department advertises in the City's major newspapers and more than twenty-five neighborhood and ethnic newspapers that serve various ethnic communities, including Russian, Haitian, Indian, Korean, Chinese, Latino, Filipino, Irish, Ukrainian, Polish, and Arabic groups. The Department also has posted advertisements on more than 1000 Web sites, including several diversity-focused sites that serve Asian and Latino groups. In one of its banner advertisements, the NYPD urges potential recruits to put their "foreign language skills to work protecting New York." NYPD Response to Data Request No. 16.

c. Targeted Student Recruiting

The Department also has developed a strategic partnership with AfterCollege, Inc., a company that specializes in recruitment at the college level. AfterCollege maintains an extensive network of contacts with faculty and student groups at various colleges and universities throughout the United States. Through its network, the company delivers targeted content about the NYPD to diverse student audiences. The NYPD retained AfterCollege to convey information about the Department's language needs and professional opportunities available to individuals with language proficiency. To accomplish this objective, the company engages in several outreach activities, such as sending targeted e-mails, posting banner ads, and advertising jobs at language career networks. During a recent campaign, AfterCollege sent a custom e-mail to sixty-two universities and academic departments to invite students to apply for the NYPD's foreign-language exam. In connection with these outreach efforts, the NYPD also notifies each online applicant about the advancement opportunities available for personnel with foreign-language abilities.

⁵² In its Response to the OCR's Data Request, the Department lists several events it attended, including the following: the Police Commissioner's Annual Clergy Conference, the International Immigrants Parade, the Pakistani Day Parade, the India Independence Day Parade, the Muslim Parade and Festival, the Afghan Independence Day, the West Indian Day Parade, the Asian-American Equality Festival, the Racial Equality Festival, the St. Patrick's Day Parade, the Puerto Rico Parade, the Columbian Festival, the Avenue of Americas Summer Festival, the Celebration of Nations Festival, the Dominican Day Parade, the Central Park Haitian Celebration, the Haitian Day Parade, the Indian Independence Day Parade, and the Columbus Day Parade.

2. Selective Language Certification Program

In addition to increasing the NYPD's visibility among potential recruits with foreign-language abilities, the Department preferentially hires recruits with foreign-language abilities through its Selective Language Certification Program, which is administered by the Chief of Personnel. LAP at 5. Under that program, police applicants who speak a language that is in demand by various NYPD sections, such as the CAB, Intelligence Division, and Counter-Terrorism Division, can receive special consideration during the hiring process. During the online application process, the NYPD elicits information from candidates about whether they possess any skill in speaking, reading, or writing one of fifty-four listed languages.⁵³

3. **Community Response to NYPD Outreach and Recruitment Activities**

The NYPD receives mixed marks from the community about its outreach efforts. A few attendees at the OCR's community meetings specifically mentioned the positive effects of the New Immigrant Outreach Unit on community relations. Several representatives were also complimentary in discussing community outreach activities at the point-of-service level. Attendees specifically praised Precinct Nos. 5 (in Chinatown, Manhattan), 33 (in Washington Heights, Manhattan), and 34 (in Washington Heights, Manhattan) for being especially responsive to community concerns. Despite these promising practices at the local level, some attendees suggested that Headquarters command staff representatives are not especially receptive to the needs of community constituencies and do not place a sufficient emphasis on educating officers about cultural awareness. Participants also observed that, because of this lack of cultural training, there may be more language-related barriers during routine encounters between the NYPD and LEP persons. Attendees encouraged the NYPD to develop collaborative partnerships with more community-based organizations; to expand its outreach activities by participating in more community events; and to increase its public education efforts through advertisements and leaflets.

In contrast to several of the outreach challenges identified by the meeting attendees, participants provided largely positive feedback about the NYPD's efforts to deploy patrol officers with more language diversity. They commented that there has been a noticeable increase in the efforts by the Department, through reliance on recruiting and advertisements, to expand the language diversity of cadet classes. Likely as a result, the community representatives reported that there are more Spanish-speaking patrol officers in certain precincts. Participants encouraged the NYPD to hire even more bilingual officers.

Recommendations

Based on the OCR's review and consideration of all of the information it received during its Compliance Review, it is evident that the NYPD understands the importance of community relations and endeavors to understand unique neighborhood concerns. Yet, despite its efforts to

⁵³ The form lists each of the City's frequently encountered languages, except French Creole.

engage local stakeholders, there is a perception among some community leaders that the Department does not value their perspectives or seek strong community relationships. While the NYPD's general response to community issues throughout the City is beyond the scope of this Report, the OCR recommends that the Department (1) highlight the availability of its language resources, (2) improve its ability to receive and respond to community feedback about its provision of services to LEP individuals, and (3) continue to emphasize hiring personnel with foreign-language abilities.

First, the OCR urges the NYPD to improve the dissemination of its LAP so that appropriate organizations and the public are aware that the Recipient seeks to ensure language access in a thoughtful and coherent way. By highlighting its existing language assistance tools, the Department can begin to address the perceptions among some members of the community that, in certain types of interactions, LEP persons may receive fewer services or benefits than English speakers. It may also be beneficial for individual precincts or housing PSAs serving large numbers of LEP persons to discuss issues involving language access at periodic community council and resident council meetings.⁵⁴ The NYPD should also adopt a Department-wide strategy for working with ethnic media markets to inform LEP persons of the availability of free language assistance resources.

Second, to improve its ability to serve LEP communities, the NYPD should ensure that Headquarters and point-of-service locations more effectively share information with each other about Department and local initiatives to serve LEP persons. For instance, the Department may wish to reevaluate and, if appropriate, refine its processes for identifying promising community outreach activities that exist at a particular precinct and could be effectively implemented at other point-of-service locations. The OCR also recommends that the NYPD increase the profile of the CAB and its New Immigrant Outreach Unit. While the Department is to be commended for developing the Unit, its limited staff resources make it difficult (if not impossible) to communicate effectively with all of the City's LEP populations. By enhancing the CAB and Unit, such as by strengthening their linkages to community affairs offices and by dedicating additional resources to them, the NYPD could receive more complete information about the unique needs of different LEP communities regarding outreach and the provision of language services.

Third, recognizing that the NYPD has implemented a multi-prong recruitment strategy for attracting officers with foreign-language abilities, the Department should continue its efforts to recruit bilingual personnel, especially those who are qualified to provide assistance in the City's most frequently encountered languages. The Department should also work with community groups serving LEP populations to determine what additional steps it can take to attract more bilingual employees who are qualified to interpret or translate and who can provide direct language services to LEP persons. By adding more qualified foreign-language speakers to its ranks, the NYPD can further enhance its ability to engage in effective community policing.

⁵⁴ The NYPD emphasizes that, "[t]o the extent our commanders are questioned regarding LEP access to local police services, we encourage them to address their concerns." NYPD Response to Draft Compliance Review Report, App. at 15.

X. Written Language Resources

This section of the Report evaluates how effectively the NYPD provides written language resources to LEP persons.

A. Translation of Vital Written Documents

In its LAP, the Department avers that it will translate essential public documents into Spanish, Chinese, Korean, Creole, Russian, and Italian. LAP at 3. Despite the Department's stated desire to translate critical forms and other written materials into other languages, it has made only piecemeal progress in achieving this goal.

1. Decentralized Responsibility for Document Translation

The NYPD relies on two offices to identify specific vital documents⁵⁵ for translation and to ensure that those materials are translated accurately: (1) the OMAP ensures that appropriate forms are translated, and (2) the CAB identifies publications for translation, such as those related to community affairs and crime prevention issues. While the CAB has made significant progress in identifying vital documents for translation, the OCR is concerned that the OMAP may have concluded that certain forms are vital but should, nevertheless, not be translated. The OMAP has only committed to translating an NYPD form that is completed by a person who files a police report about missing property.⁵⁶ See PD 313-1516, Complainant's Report of Lost or Stolen Property/Identity Theft. The Office has not selected for translation various other forms that also relate to property crimes and identity theft. See PD 313-084, Identity Theft Preliminary Investigation Report (requiring victim to sign release authorizing NYPD to obtain information from victim's creditors); PD 542-061, Verification of Crime/Lost Property. Further, the OMAP has not elected to translate forms that provide critical information to the public and permit individuals to raise concerns about potential officer misconduct with the NYPD. For instance, the Department gives crime victims an Incident Information Slip that contains detailed information about their reported crime and the officer who handled the matter. The Recipient also provides a Civilian Complaint Report to persons who want to file a complaint against an officer. Neither of these documents is available in a language other than English.

2. Translation of Vital Documents Into Specific Foreign Languages

The NYPD does not ensure that its vital documents are translated into all frequently encountered languages. For instance, despite acknowledging that Spanish, Chinese, Korean, French Creole, Russian, and Italian are often encountered by the NYPD, the Department does not consistently translate documents into those languages. In fact, none of the documents identified by the Department in its Response to the OCR's Data Request has been translated into all six languages.

⁵⁵ See Compliance Review Report, *infra* pp. 40-41.

⁵⁶ To date, the form is not available in any language other than English.

For some frequently encountered languages, there are few or no translated documents (for instance, no documents are available in Italian; only two documents are available in Korean). The OCR also could not discern any effort by the Department to evaluate whether vital documents should be translated into other languages that may be frequently encountered in specific precincts, transit districts, or housing PSAs throughout the City.

The NYPD also lacks a Department-wide approach to identifying and documenting the languages in which vital documents are available. In its Response to the OCR's Data Request, the Department provided incomplete information about the specific languages into which various documents are translated. During the OCR's April 2010 onsite visit, we received new information about translated versions of several documents. For instance, the New Immigrant Outreach Unit gave the OCR an NYPD brochure entitled Tips on Burglary Prevention that is translated in Korean. We also learned that an NYPD publication entitled What You Need To Know About . . . Identity Theft is available in Spanish at Housing PSA No. 7. The failure to maintain an accurate inventory of all translated materials likely creates confusion about the extent to which translated vital documents are available as resources for the community.

B. Web Site Resources for LEP Persons

The NYPD's Web site (<http://www.nyc.gov/nypd>) contains assorted content in several foreign languages. For instance, the Department provides information in Spanish, Russian, Korean, Italian, French Creole, and Chinese about a Stop, Question, and Frisk encounter. Often, however, the posted information is not translated into the six most frequently encountered languages that the DCP identified. Specifically, information about the NYPD's Crime Stoppers program is only available in Spanish, Korean, Chinese, and Russian; three domestic violence brochures are only translated in Spanish, Russian, Arabic, and Creole; and three crime prevention brochures are only available in Korean and Chinese. The Office of the Mayor and the Department of Information Technology and Telecommunications also are developing a Citywide Web strategy to translate all City agency Web sites into Spanish, Chinese, Korean, Creole, Russian, and Italian. LAP at 8. While the NYPD notes that it will collaborate with these City offices to translate information on its Web site (*id.*), the Department could not provide a report about the status of this project.

Recommendations

The NYPD already has translated numerous documents into other languages; however, it needs to take further action to ensure compliance with Title VI and the Safe Streets Act. The DOJ encourages recipients to satisfy the "safe harbor" provisions in its Guidance Document when determining which documents to translate. *See* DOJ Guidance, 67 Fed. Reg. at 41,464. This provision states that recipients should translate "vital documents" for LEP groups that comprise five percent or 1000, 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 41,463. Examples of documents that may be

“vital” are documents relating to a citizen’s rights or the provision of consent and correspondence with complainants. In addition, oral interpretation and explanation are critical regardless of whether a particular population has met the numerical threshold. Frequently, translation would still be the better course of action. In the event a document is not translated and must be presented to an LEP individual, a qualified bilingual staff member should translate the document for the LEP person or, if that is not practicable, orally interpret the document for the individual.

In accordance with the DOJ Guidance, the NYPD should take additional steps to ensure that various documents are available in pertinent languages. It should perform an inventory of all relevant written materials, identify the documents that may be “vital” to LEP groups and, to the extent it has not already done so, translate these documents into the languages that meet the safe harbor threshold.⁵⁷ There likely are multiple language groups in point-of-service locations (other than the six frequently encountered languages identified by the City) that easily trigger a translation obligation under the safe harbor test. If the Department seeks to rely on staff members to translate materials, it should assess and confirm the ability of those employees to translate documents. Translation requires a separate set of skills, and any assumptions about staff ability in this area must be verified. The Recipient also should provide training to bilingual staff members about the skills, ethics, methods, and substance of translation. If the NYPD cannot rely on in-house translation for certain materials, it should obtain professional translations of those documents with second-check reviews for accuracy. Further, the Department should develop a strategy for distributing its translated materials to those eligible to receive specific services, as appropriate, including through its Web site. Specifically, the Recipient should take steps to ensure that all important information available in English on its Web site is also available in other languages.

XI. Available Resources

The NYPD’s fiscal year is from July 1 through June 30. The Department operates with a substantial budget. According to its Response to the OCR’s Data Request, its operational budget for fiscal year 2009 was \$4,479,543,294; for fiscal year 2008, its operational budget was \$4,170,120,725. In its LAP, the Department notes that its “core resources are able to provide limitless language access for LEP individuals regardless of the number of requests.” LAP at 7. During the first three months of 2010, the NYPD spent the following on Language Line services: January – \$29,072.07; February – \$25,530.30; and March – \$31,331.79. During fiscal year 2009, the NYPD’s outlays for Language Line totaled \$343,813; during fiscal year 2008, that amount was \$340,039. The Department paid the Berlitz Language Center and Geneva Worldwide a combined total of \$15,280 between January 2009 and April 2010 to administer language certification tests. The Recipient could not provide an estimate of its payroll or overtime expenses for the provision of language assistance through its VLP.

⁵⁷ The NYPD notes that it will, “to the extent practicable, . . . identify those forms typically prepared by the public not already in a language other than English and will consider translating them.” NYPD Response to Draft Compliance Review Report, App. at 17. It will also finalize “a new policy regarding the translation of Department documents into foreign languages.” *Id.*

Recommendations

The NYPD should review its human and capital resources to assess how well it responds to the needs of its LEP populations. The Department already makes a significant effort to interact with various community constituencies. As part of these ongoing relationships, the NYPD should continue to gather feedback from local LEP service populations, as well as appropriate organizations and associations, about how the Department can provide more effective language assistance services. The Department may also utilize community groups to identify additional community resources that are available to provide cost-effective and reliable language assistance services, in appropriate circumstances, to the City's LEP populations.⁵⁸

XII. Refinement and Expansion of Language Access Plan

An effective plan for providing language assistance to LEP persons includes a number of common strategies that can be divided into the following five basic elements: (1) determining the law enforcement agency's language service needs based on a focus on the important contacts the agency has or should have with LEP persons; (2) identifying language resources that will help meet those identified needs, and educating personnel and LEP individuals about how to access and effectively utilize those resources; (3) training staff and managers on effective and innovative methods of communication with LEP persons; (4) implementing and enforcing quality control measures to ensure that the agency is communicating accurately and effectively with LEP individuals; and (5) conducting outreach to ensure that all community members, regardless of national origin, know that they can access the program and provide feedback to the agency about the language services provided. The plan should include a blueprint for management action and effective implementation to ensure that the agency is weighing appropriate consideration of the issues, including, but not limited to, policy, budgeting, hiring, supervision, training, monitoring, public notice, and outreach. The NYPD should implement formal policies governing the manner in which services will be delivered to LEP persons, and should devise protocols to allow staff to implement these policies.

Recommendations

The OCR commends the NYPD for its efforts to ensure that LEP residents receive adequate language services. In implementing its LAP, the Department recognizes the importance of providing effective language assistance to LEP persons throughout the City. At the same time, and as discussed throughout the Report, the OCR urges the NYPD to revise its Plan to ensure that it satisfies the requirements of Title VI and the Safe Streets Act, applies faithfully the four elements contained in the DOJ Guidance, and provides sufficient information to the public. The Department should refine and expand its LAP to ensure that it incorporates the five elements referenced above and addresses the concerns raised in this Compliance Review Report. In

⁵⁸ Again, the OCR cites the Chinatown Project as an instructive example of how individual point-of-service locations can leverage the existing resources of local organizations to enhance the provision of services to LEP persons.

Raymond W. Kelly, Police Commissioner
New York City Police Dep't
November 8, 2010
Page 43 of 43

reviewing its LAP, the Recipient 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 language assistance plan. These documents are available at <http://www.lep.gov> and should assist the NYPD in strengthening its LAP. The OCR also encourages the commanding officer of OMAP to designate at least one staff person to coordinate the day-to-day provision of services to the City's growing LEP populations.

XIII. Conclusion

This letter serves as notice that the OCR has made a preliminary determination that, although the NYPD appears to be taking some steps to provide meaningful access to its programs and activities to LEP persons, it should build on these steps to ensure compliance with Title VI and the Safe Streets Act. It is clear the Department needs to take further action to ensure that it adequately provides language assistance services to LEP persons. On request, the OCR is available to provide technical assistance to the NYPD in implementing its recommendations. Immediately upon receipt of this letter, which is a public document, we ask that the Recipient have a responsible agency official contact Attorney Advisor Christopher P. Zubowicz to develop timelines and goals for implementing specific recommendations in the Compliance Review Report.⁵⁹ The OCR will review these responses, including the refinement of the Department's LAP, and provide feedback. We expect that this Compliance Review will be closed when satisfactory plans are in place and appropriately implemented.

Thank you for your cooperation and the assistance of your staff throughout the Compliance Review process. If you have any questions, please contact Mr. Zubowicz at 202.305.9012.

Sincerely,



Michael L. Alston
Director

cc: John Donohue, Deputy Chief, Office of Management Analysis and Planning
(Via Certified Mail and Electronic Mail)

⁵⁹ While the NYPD's response to the draft Report addressed some of the OCR's recommendations, please ensure that the official responsible for following up with us responds to each recommendation contained in the final Report.