



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

CERTIFIED-RETURN RECEIPT REQUESTED

September 22, 2008

Chief of Police Michael McGrath
City of Cleveland Department of Public Safety
Division of Police
1300 Ontario Street
Cleveland, Ohio 44114

Re: Compliance Review of the Cleveland Division of Police (08-OCR-0034)

Dear Chief McGrath:

I am writing to report the findings of the compliance review of language services at the Cleveland Division of Police (CDP), conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice. The OCR would like to thank CDP and City of Cleveland Department of Law staff, especially Sergeant Anthony Gorsek, Assistant Director of Law Nancy Kelly, and Chief Assistant Director of Law Stew Hastings for assisting OCR attorney Shelley Langguth during her May 20-21, 2008, onsite visit.

In my letter of October 31, 2007, I wrote to inform Chief McGrath that OCR had selected the CDP for a compliance review under Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) and their implementing regulations. As I noted at that time, OCR limited the scope of the compliance review to the CDP's provision of services to people with limited English proficiency (LEP). A LEP person is an individual whose primary language is not English and who has a limited ability to read, write, speak, or understand English.

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

After a thorough evaluation of the CDP's services and activities, including the CDP's responses to OCR's data requests and the information OCR gathered during its onsite visit, which included interviews with department officials, command staff, sworn officers, and representatives from LEP communities, we sent you a draft report on August 1, 2008, in accordance with 28 C.F.R. §§ 42.107(d)(2) and .206(e). In a September 22, 2008, telephone conversation, Commander O'Neil of CDP's Bureau of Human Resources told Ms. Langguth that the CDP does not have any factual corrections to the draft report.

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

Compliance Review Report

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

I. Assessing the Obligation to Provide LEP Services

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

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

The CDP divides the City of Cleveland into the First, Second, Third, Fourth, and Fifth Police Districts. Based on recent data from the U.S Census Bureau, in 2006, the City of Cleveland had an estimated population of 379,768 residents age five and older; of this group, 335,880 spoke English only, and 43,888 (12%) spoke a language other than English. U.S. Census Bureau, American FactFinder, Selected Social Characteristics in the United States, Cleveland city, Ohio, 2006 American Community Survey at <http://factfinder.census.gov>. Of those individuals age five and older who spoke a language other than English, 27,233 spoke Spanish, and almost half of

this number (12,941) spoke English less than “very well,” which OCR considers LEP. Id. This data further indicates that 9,125 residents age five and older spoke other Indo-European languages, with 3,142 speaking English less than “very well;” 4,050 spoke Asian and Pacific Island languages, with 2,611 speaking English less than “very well;” and 3,480 spoke other languages, with 1,219 speaking English less than “very well.” Id.

Additional data from the U.S. Census Bureau's 2006 American Community Survey provides information on the specific Indo-European and Asian and Pacific Island languages spoken by City of Cleveland residents age five and older. This data indicates that 3,177 residents spoke Slavic languages; 1,021 residents spoke German, 975 residents spoke French, and 3,952 residents spoke other Indo-European languages. U.S. Census Bureau, American FactFinder, C16001. Language Spoken at Home for the Population 5 Years and Over, Cleveland city, Ohio, 2006 American Community Survey at <http://factfinder.census.gov>. The data further demonstrates that 1,515 residents spoke Chinese, 1,192 residents spoke Vietnamese, 334 residents spoke Tagalog, 189 residents spoke Korean, and 820 residents spoke other Asian or Pacific Island languages. Id. This particular data set does not specify the number of LEP individuals within each language group.

The CDP does not have data on the languages spoken or the number of LEP residents in each particular police district. During OCR's onsite interviews, CDP command staff and patrol officers told OCR that the most prevalent foreign language that they encounter is Spanish, and that the majority of the City's Spanish-speaking population resides in the Second District. Employees also reported encountering individuals who spoke Arabic, Chinese, Polish, Russian, Korean, and Vietnamese.

Recommendation

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

B. Frequency of Contacts with LEP Persons

To respond to telephone calls from LEP persons, the CDP's Bureau of Communications partially relies on Language Line Services, a private vendor that provides interpreters for over 150 languages. During OCR's onsite visit, CDP command staff and employees said that CDP officers and civilian employees also have the option of contacting Language Line via the Bureau of Communications for interpretation services.

Based on monthly reports that CDP receives from Language Line, the CDP provided OCR with a summary of the services that Language Line provided to CDP during 2007, including the number of calls each month and the languages requested. This summary demonstrates that the CDP made 23 calls to Language Line in 2007; nine of these calls involved a request for a Spanish interpreter, two calls involved a request for a Serbian interpreter, and one call requested an interpreter in each of the languages of Somali, Ukrainian, Arabic, Swahili, Mandarin, Albanian, and Cantonese. Aside from the data obtained from Language Line, CDP does not otherwise collect information on contacts with LEP individuals.

While the Language Line reports provide some helpful information, Language Line data underestimates significantly the CDP's frequency of contact with LEP individuals. This data only captures the situations when the CDP used Language Line to communicate with a LEP individual; it does not capture most field encounters and walk-ins where another type of language assistance is utilized, or the telephone calls with LEP persons when the CDP did not contact Language Line. As discussed in the following section of this Compliance Review Report, the Bureau of Communications employs a Spanish-speaking Bilingual Communications Specialist to interact with Spanish-speaking LEP callers, and has several other Communications Specialists/call takers who speak Spanish as well. And while Bureau of Communications command staff told OCR that a call taker may note on the dispatch report if a caller is LEP, it does not appear that CDP tracks this information.

Recommendation

The CDP should establish reliable systems for gathering information on contacts with its LEP service population. Supplementing the reports of Language Line, the CDP should establish procedures for recording and gathering data on all emergency and non-emergency calls from LEP persons that did not involve Language Line, including information on the nature of the call, the language requested, and the length of time a bilingual call taker spent with the LEP caller. The CDP should also develop procedures for recording and gathering data on all face-to-face contacts with LEP persons, such as by modifying its existing reporting forms or by creating a new form. However the CDP chooses to track information on its contacts with LEP persons, it should be sure to include information on the language spoken by the LEP person and the CDP's response to the need for language assistance. The CDP should then tabulate all of the data on an annual basis to determine the language needs of its LEP service population.

C. Important Public Services to LEP Individuals

1. Emergency and Non-Emergency Calls

The CDP's Bureau of Communications does not have any written policies on how to communicate with LEP callers or how to contact Language Line. The Bureau of Communications receives all emergency/911 and non-emergency telephone calls for police

services, along with emergency calls for services by the City of Cleveland's Fire Department and Emergency Medical Services (EMS). During the onsite visit, CDP command staff told OCR that the Bureau of Communications is currently budgeted for two bilingual communications specialist positions¹, but that it has only filled one of these positions, with a Spanish-speaking individual. The command staff further explained that applicants for a bilingual communications specialist position must demonstrate proficiency in a foreign language, and that bilingual employees from Cleveland City Hall conduct the proficiency testing.

Based on OCR's interviews with Bureau of Communications command staff and communications specialists, OCR understands that if a call taker receives a call from a Spanish-speaking caller, the call taker will transfer the call to the bilingual communications specialist. One call taker with whom OCR spoke said that the Bureau of Communications also employs approximately three other communications specialists who speak Spanish, and that they occasionally handle calls from Spanish-speaking callers as well. If the bilingual communications specialist or another Spanish-speaking communications specialist is not available, or if the caller speaks a foreign language other than Spanish, then the call taker will notify his/her supervisor so that the supervisor may contact Language Line. The call takers who OCR interviewed said that a LEP individual may also have an English-speaking family member or friend call on the individual's behalf, and one call taker said she always asks a LEP caller if there is a family member or friend nearby who can interpret for the caller.

If a police response is needed, the Bureau of Communications call taker will generate a computer-aided dispatch report and route the call to a Bureau of Communications dispatcher.² The Bureau of Communications command staff told OCR that call takers will note in the CAD report if a caller is LEP and that dispatchers will attempt to send a bilingual officer to the scene, and the communications specialists with whom OCR spoke confirmed this.

2. Field Encounters and Walk-Ins

In its data response, the CDP said that if CDP employees need an interpreter during field encounters, walk-in encounters, and other law enforcement situations, the employees have a variety of options to obtain assistance. The CDP stated that the primary option is always a bilingual officer, and that other options include a bilingual non-sworn CDP employee, Language Line, bilingual employees from the City of Cleveland Department of Community Relations, bilingual community group representatives, printed materials, and relatives of the LEP individual. The CDP provided OCR with copies of several written departmental notices

¹ Based on OCR's interviews with Bureau of Communications employees, OCR understands that individuals employed as a communications specialist may serve as either a call taker or a dispatcher, depending on operational needs, or may just serve as a call taker. The OCR further understands that the current bilingual communications specialist works only as a call taker.

² If the 911 call is for services from the Fire Department or EMS, the call taker will transfer the call to a Fire Department or EMS call taker.

pertaining to LEP individuals; the most current notice, dated August 3, 2006, informs CDP employees that they must take reasonable steps to provide meaningful access to all individuals, and that if an employee comes into contact with a LEP individual the employee should contact the Communications Control Section³ to request assistance. See Cleveland Division of Police Divisional Notice 06-293 (issued August 3, 2006).⁴ Divisional Notice 06-293 further states that a Communications Control Section supervisor will make arrangements for interpretation services, and that interpreters are available 24 hours a day and may also be scheduled in advance, such as when taking statements. Id.

The CDP provided a copy of the "CDPH Language Barriers Resources List" with its data response; this list provides the names and contact information of 50 individuals from City of Cleveland departments or community organizations who speak 20 different languages and provide language assistance upon request. During OCR's onsite visit, CDP command staff explained that this list is maintained by the City's Department of Community Relations. The Command Staff from CDP's Bureau of Communications told OCR that the Bureau of Communications is not familiar with this list and has never used a bilingual City of Cleveland employee or member of a community group to interpret.

During OCR's onsite interviews, the patrol officers told OCR that if they encounter a LEP person in the field, they locate a bilingual officer to provide interpretation, rely on friends or family members to interpret, or contact Language Line for assistance. The officers told OCR that if they are aware of a particular officer who speaks the needed language, they contact that officer directly over the phone or request that dispatch raise that particular officer over the radio; otherwise, the officers request that dispatch locate an appropriate bilingual officer. The CDP command staff told OCR that dispatch has a list of all bilingual CDP employees that it relies on to locate an appropriate interpreter; OCR understands that this list is the "Foreign Language Roster" that OCR provided with its data response and updated during the onsite visit. Additionally, the bilingual communications specialist told OCR that on a few occasions she has provided interpretation over the phone for an officer in the field interacting with a Spanish-speaking LEP individual. According to the officers and civilian employees interviewed by OCR, if a LEP individual walks into a district station for assistance, the employees try to locate a bilingual officer at the station, or may obtain interpretation from an officer in the field.

Several officers and civilian employees told OCR that if a bilingual CDP employee is not available to provide language assistance, then the employees would contact Language Line,

³ The Communications Control Section is part of the Bureau of Communications; OCR understands that this Section is responsible for dispatching services and is referred to by CDP employees as "dispatch."

⁴ The older departmental notices include Departmental Notice 92-383 (issued December 30, 1992), in which the CDP notifies employees that CDP is subscribing to Language Line and that employees should call a radio supervisor to access Language Line when encountering a LEP individual; and Departmental Notice 93-46 (issued February 12, 1993), in which CDP states that Language Line has provided language identification pamphlets that CDP will distribute to all units.

either by contacting dispatch or calling Language Line directly. However, only three employees with whom OCR spoke had ever used Language Line, and several employees were not familiar with Language Line.

Regarding the use of family members, friends, or bystanders to interpret, almost every officer or civilian whom OCR interviewed reported using these individuals to interpret. In fact, several officers told OCR that when encountering a LEP person in the field or at the station, they initially see if there is a family member who can interpret. Many of the employees identified several situations where they would not use a friend, family member, or bystander to interpret, such as if the situation involved a serious crime, an assault, or domestic violence; if the friend, family member, or bystander was a suspect in a crime; or if the LEP individual had privacy concerns. One officer reported using body language to communicate with LEP individuals, and one officer said that she once had a situation where she could not locate a bilingual officer and she told the LEP individual to come back later or to bring someone along who could interpret.

3. Interviews and Interrogations

In conducting interviews and interrogations of LEP individuals, CDP said in its data response that it follows the same procedures described above, which involve locating a bilingual CDP employee to interpret, contacting Language Line, using bilingual personnel from the City of Cleveland Department of Community Relations or local community groups, using printed materials, and using relatives of the LEP individual. According to the detectives interviewed by OCR, the detectives will first try to use a bilingual detective at the district station, and if one is not available, will attempt to locate a bilingual officer. Two detectives reporting contacting Language Line when a bilingual officer was not available; one detective said that she contacted Language Line directly, and the other detective said that she contacted Language Line via dispatch. Several detectives reported using family members or friends to interpret for a LEP individual being interviewed or interrogated, although one of these detectives said that she would not use a friend or family member to interpret if the friend or family member was a suspect.

All of the detectives with whom OCR spoke reported carrying a card listing the Miranda Warnings in both English and Spanish; the detectives said that they received this card during the police academy. Two Spanish-speaking detectives said that when they take a statement from a Spanish-speaking individual, they write down the statement in English and then read it back to the individual in Spanish.

4. Arrests and Detention

According to the CDP's data response, when arresting a LEP individual, the CDP first attempts to locate a bilingual officer or civilian employee to interpret, then contacts Language Line, and then would obtain language assistance from the City's Department of Community Relations or

relatives of the LEP individual. As discussed above, CDP officers have a card listing the Miranda Warnings in English and Spanish.

Once a CDP officer arrests an individual, the arresting officer brings the individual to the City Jail/Central Prison Unit; this City Jail is located at CDP Headquarters but is operated by the Division of Corrections within the City of Cleveland's Department of Public Safety. Once the CDP transports the inmate to the City Jail, the CDP relinquishes control of the inmate and detention services are provided by the Division of Corrections.

The Division of Corrections command staff told OCR that the City Jail confines individuals for up to twelve days, and that the average period of detention is generally one to three days. The command staff told OCR that if an inmate is LEP, the Division of Corrections uses Spanish-speaking correctional guards to communicate as appropriate; for other languages, the Division of Corrections contacts Language Line. The command staff noted that approximately twelve correctional guards speak Spanish. The command staff further said that the Divisions of Corrections may use a friend or family member to communicate for a LEP inmate or visitor, but would not use an inmate to interpret. According to Division of Corrections command staff, if an inmate is LEP the correctional guard will note that on the inmate's booking card.

5. Complaints

The CDP provided OCR with its policies and procedures relating to the processing of complaints; with the exception of a brief reference in the Office of Professional Standards Procedural Manual, these policies do not address the processing of complaints from LEP individuals. See General Police Order Number 1.3.15, Investigations of Police Conduct; Office of Professional Standards Procedural Manual. Based on these documents and on information gathered during OCR's onsite visit, OCR understands that members of the public can complain of alleged police misconduct in writing, over the telephone, or in person at any CDP facility or the Office of Professional Standards (OPS), Department of Public Safety. If the complainant appears in person at the CDP, the CDP offers the complainant an OPS Citizen Complaint Form to complete and then forwards the Citizen Complaint Form to OPS; if the complaint is submitted over the phone or in the mail, CDP forwards the information to OPS and OPS follows up with the complainant to obtain a completed Citizen Complaint Form. The OPS is responsible for investigating complaints against the CDP. Attached to the Citizen Complaint Form is an Advisement of Rights of Ohio Revised Code Statute that the complainant must sign; this Advisement notifies complainants that knowingly filing a false complaint against an officer is punishable under Ohio Revised Code 2921.15, Making False Allegation of Peace Officer Misconduct, and Ohio Revised Code 2921.11, Perjury.⁵

⁵ Based on research conducted by OCR, we understand that Ohio Revised Code 2921.15 has been declared unconstitutional by a municipal court. See State v. English, 120 Ohio Misc.2d 16, 776 N.E.2d 1179 (Ohio Mun. 2002). Moreover, please note that the IACP National Law Enforcement Policy Center advises law enforcement agencies that it is not a good general practice to inform complainants of the penalties for filing a false complaint, as it

During the onsite visit, OPS command staff explained to OCR that OPS is responsible for investigating all complaints to determine the facts, but that OPS does not make any recommendations or findings regarding a complaint. Rather, after conducting a complete investigation, OPS forwards a synopsis of the investigation to the Police Review Board; the Police Review Board is also part of the City's Department of Public Safety and consists of five civilian members appointed by the Mayor. In reaching a determination on a complaint, the Police Review Board may choose to hold a public hearing; the OPS Procedural Manual states that OPS shall notify a complainant in writing if a hearing will be held and that if a complainant requires the services of an interpreter, the complainant must notify OPS at least five days before the hearing. The Police Review Board notifies a complainant in writing of the ultimate determination and disposition of the complaint.

The OPS Citizen Complaint Form is only available in English. The OPS command staff told OCR that OPS has received complaints from three Spanish-speaking individuals, and that a Spanish-speaking employee of OPS communicated with these individuals in Spanish. The command staff further said that OPS once received a complaint from a Somali-speaking individual, and that OPS had to repeat some things but was able to communicate with the complainant. The command staff stated that OPS informs individuals that an interpreter is available if needed, but that so far no complainants have desired an interpreter. According to the command staff, if a complainant requested an interpreter OPS would probably contact CDP's dispatch. The command staff said that all correspondence that OPS or the Police Review Board sends to complainants is in English.

During the period of July 1, 2005 to December 27, 2007, the CDP reported that it received one complaint from an individual alleging ineffective communication with a LEP individual. In this complaint regarding an August 12, 2007, incident, the Spanish-speaking complainant alleged that when CDP officers responded to her 911 call concerning a domestic violence incident, the officers paid more attention and gave more credence to her husband, who spoke English, and ignored and ridiculed her.⁶ The complainant stated that she believes that the officers discriminated against her once they heard her speaking Spanish. According to the CDP dispatcher's notes on the incident report, when the complainant called 911 she requested that CDP send a Spanish-speaking officer to the scene; in the written statements by the involved officers, the officers noted that they requested a Spanish-speaking officer when they were at the scene but that there weren't any Spanish-speaking officers available. Both of the involved officers further noted that the complainant's son, who was at the scene, provided interpretation

creates a chilling effect on the filing of complaints and could be perceived as an attempt to intimidate potential complainants. Additionally, a law enforcement agency's failure to fully document all complaints from the public can create a perception that the agency is covering up some officer misconduct. See the Model Policy on Investigation of Employee Misconduct and its accompanying Concepts and Issues Paper, published by the IACP National Law Enforcement Policy Center (revised October 2001).

⁶The complainant completed the Citizen Complaint Form in Spanish, and CDP provided OCR with a copy of the complainant's statement translated into English. The CDP did not indicate who translated the statement into English.

when the officers could not understand the complainant. One of the officers stated that "I do not speak Spanish, but I did not have any trouble understanding the mistruths" that the complainant and her son were telling the officer. This officer also said that he did not feel it was necessary to notify his supervisor of a language barrier because the complainant's son and husband spoke English, and that the complainant also spoke English and had no trouble understanding the officer when they were alone. The Police Review Board held a hearing on this complaint on July 22, 2008, and found the complaint to be unfounded.

6. Community Outreach

The CDP reaches out to LEP populations by holding meetings on a variety of law enforcement topics, both on its own and in conjunction with the City of Cleveland's Department of Community Relations. The CDP has a Bureau of Community Policing that dispatches community policing officers throughout the City; according to Bureau of Community Policing command staff, the purpose of the Bureau is to break the ice between citizens and the police. The command staff told OCR that the Bureau of Community Policing conducts community meetings on crime prevention at the Bureau's own initiative or at the request of neighborhood groups. According to the command staff, the Bureau of Community Policing has one Spanish-speaking officer on staff, and members of the community may call and specifically request to speak or meet with that officer. For example, command staff told OCR that Esperanza, Inc., a non-profit organization serving the Hispanic community, has contacted the Bureau of Community Policing and requested that the Bureau's Spanish-speaking officer meet with young Hispanic men who were involved in gangs. The commanding officer said that he otherwise cannot recall a Bureau of Community Policing meeting where LEP individuals were in attendance, but that if that situation were to occur, the Bureau would provide interpretation using a bilingual officer from CDP or from another city's police department.

The CDP also works with the City of Cleveland's Department of Community Relations to reach out to LEP communities. The OCR understands that the Department of Community Relations includes a Community Relations Board; according to the Director of the Department of Community Relations and information contained in CDP's data response, the Community Relations Board promotes peaceful relations among racial and cultural groups within the City of Cleveland and is comprised of the City Mayor, two councilmen, and 14 representatives from labor, industry, and community organizations representing a variety of backgrounds. The Director of the Department of Community Relations and CDP command staff explained to OCR that the Department of Community Relations employs staff members to assist the Community Relations Board in reaching out to the community, including an Asian American Liaison and a Hispanic Liaison who speak Vietnamese and Spanish, respectively. Based on OCR's conversations with CDP and the Director of the Department of Community Relations, OCR understands that the Community Relations Board oversees police committees in each police district, which are comprised of representatives from the Community Relations Board and Department of Community Relations employees, CDP's Bureau of Community Policing, the

CDP commander of that police district, citizens, and community group representatives. These police committees have monthly meetings within each district; the Director of the Department of Community Relations noted that LEP individuals occasionally attend these meetings and that the Department of Community Relations will send a bilingual Department of Community Relations employee, such as the Hispanic Liaison or the Asian American Liaison, to interpret as necessary.

Additionally, the Director of the Department of Community Relations said that if a CDP district commander identifies a law enforcement problem within the commander's district, the district commander may request that the Community Relations Board work with CDP to conduct outreach activities within that district. The Director provided an example of when the Community Relations Board recently met with the Hispanic community to address the community's questions regarding a reorganization of CDP, and when the Community Relations Board met with the Asian community to discuss concerns regarding a missing elderly Asian woman. The Director told OCR that CDP's Second Police District frequently sets up meetings with the Community Relations Board and the Hispanic community, and two Spanish-speaking CDP officers from the First and Second Police Districts with whom OCR spoke reported attending community meetings and addressing attendees in Spanish. One district commanding officer told OCR that while CDP has meetings with Spanish- and Vietnamese-speaking LEP communities, other language groups are "out of luck."

The Director of the Department of Community Relations further told OCR that the Department of Community Relations's Hispanic and Asian American liaisons have translated recruitment material for CDP into Spanish and Vietnamese. Also, the Director said that an Arab individual serving on the Community Relations Board has met with the recruitment unit of the CDP to assist the CDP in recruiting officers from the Arab community.

During OCR's discussions with community representatives serving LEP populations, one representative said that the CDP appears to have an adequate number of Spanish-speaking officers to communicate with the Hispanic community, and that CDP seems to do its best to find language assistance for other languages. The representative said that CDP has always met with the representative's organization and its service population when asked, and that the community organization provided interpreters at these meetings. However, the representative said that Spanish-speaking LEP individuals have expressed concern that CDP officers have inquired about citizenship status during traffic stops, and that this has resulted in members of the Hispanic community being reluctant to interact with the CDP.

7. General Language Services

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

a. Oral Language Services

The CDP command staff, patrol officers and civilian employees with whom OCR spoke identified four primary ways in which the CDP provides oral language assistance to LEP individuals: (1) through Language Line; (2) through bilingual CDP employees; (3) through friends or family members of LEP individuals or third-party bystanders; and (4) through bilingual City of Cleveland Department of Community Relations employees or representatives of community groups. As noted in Section I.C.2 of this Compliance Review Report, CDP Divisional Notice 06-293 and Departmental Notice 92-383 instruct employees to contact dispatch to request assistance during encounters with LEP individuals.

As previously noted in this Compliance Review Report, the CDP uses Language Line to respond to telephone calls from LEP persons, and may also use this service during face-to-face encounters. While Language Line appears to be useful to the Bureau of Communications in responding to emergency and non-emergency calls for service, it appears that few other CDP employees use this service; during onsite interviews, only three patrol officers or civilian employees reported using Language Line for language assistance. Furthermore, several officers, including a district commanding officer, had never heard of Language Line.

For non-telephonic encounters with LEP persons, most CDP officers and civilian employees initially attempt to obtain language assistance from a bilingual employee with the appropriate language skills, either by calling the bilingual employee directly or contacting dispatch. The CDP provided OCR with a list of bilingual CDP employees, entitled the "Foreign Language Roster," which is maintained by CDP's dispatch and the Bureau of Human Resources. This list contains the names of 98 bilingual CDP employees, listing the foreign language(s) that each employee speaks and the employee's assigned unit. Of the 98 bilingual CDP employees, 74 speak Spanish, four speak German, three employees are listed for each of the languages of Polish, Romanian, and Vietnamese, two speak Slovenian, and there is one employee listed for each of the languages of Gaelic, Dutch, Serbian-Croatian, Hindu, Arabic, Albanian, Hungarian, and Croatian. The CDP command staff told OCR that the Bureau of Human Resources sends out an annual survey to employees requesting the names of any bilingual employees, and that the Foreign Language Roster is based on survey responses. During OCR's interviews with patrol officers, OCR discovered that several of the bilingual officers who are listed on the Foreign Language Roster were unaware of the existence of this list and that they are on it.

Other than the bilingual communications specialist positions, the CDP does not test the language proficiency of its bilingual employees. The CDP command staff told OCR that bilingual employees from City Hall conduct written and oral examinations to test the language ability of applicants for the bilingual communications specialist position. In its data response, the CDP said that it does not provide additional compensation to its bilingual employees; however, during OCR's onsite interview with the bilingual communications specialist, the bilingual communications specialist said that her salary is approximately \$2.00 an hour higher than the

salary of those communications specialists who also serve only as call takers. The CDP said in its data response that supervisory personnel will take language skills into account when making assignments, and several Spanish-speaking detectives told OCR that they believe that CDP purposely assigns them the cases involving Spanish-speaking individuals. While most of the bilingual employees with whom OCR spoke said that providing language assistance does not interfere with their ability to complete their own assignments, one detective said that it does interrupt the detective's own assignments and that the detective may have to additionally assume responsibility for the case involving the LEP individual.

As for recruiting bilingual officers, CDP command staff told OCR that during its last recruitment drive in April 2007, it advertised sworn officer positions in the Spanish newspaper El Barrio and on a Spanish-language billboard. Additionally, as discussed in Section I.C.6 of this Compliance Review Report, bilingual employees from the City of Cleveland's Department of Community Relations have translated recruitment material for CDP into Spanish and Vietnamese, and CDP has met with an Arab individual on the Community Relations Board to recruit members of the Arab community.

Regarding the use of family members, friends, and bystanders to interpret, as explained in Section I.C.2 of this Compliance Review Report, the majority of CDP employees with whom OCR spoke reported using these individuals to interpret. The employees did name several types of situations where they would not feel comfortable doing so, such as if the situation involved domestic violence or if the friend or relative was a suspect in a crime. One officer recalled a situation where the officer failed to provide a LEP individual with assistance and told the individual to come back later with someone who could speak English. During OCR's onsite interviews, one officer expressed the belief that community members should understand that they need to speak English.

In its data response, CDP stated that employees may also provide oral language services to LEP individuals through bilingual employees with the City's Department of Community Relations or local community organizations. The Department of Community Relations has a list of 50 individuals from City departments and community organizations who speak 20 different languages and can provide language services upon request. As discussed in Section I.C.6 of this Compliance Review Report, bilingual employees from the Department of Community Relations have provided interpretation at community meetings; however, the CDP employees and command staff with whom OCR spoke have not otherwise used Department of Community Relations employees or individuals from community organizations for interpretation.

During OCR's onsite visit, CDP command staff said that CDP trains employees on providing language services to LEP individuals by ensuring that every officer has a list of all CDP orders and notices, including Notices 06-293, 92-383, and 93-46 pertaining to LEP. The command staff noted that officers are tested on these notices while they are in the academy, and also when they are up for a promotion. However, during OCR's interviews with officers, civilian employees,

and division commanders, only one employee, a division commander, mentioned that CDP may have a divisional order on providing services to LEP individuals. The command staff also told OCR that during a recent in-service training for officers, CDP had a one-day class on "Survival Spanish for Law Enforcement Officers," and that officers learned essential phrases in Spanish during the police academy. Several of the officers with whom OCR spoke discussed receiving this Spanish instruction, and a few officers reported receiving either in-service training or training in the police academy on how to obtain language assistance for LEP individuals. One officer told OCR that CDP has a tuition reimbursement program that pays for officers to take language classes from local colleges or universities; this officer recommended that CDP allow officers to take language classes during duty hours.

b. Written Language Services

In its data response, the CDP stated that it translates documents into languages other than English based primarily on the demographics of the City. The CDP provided OCR with copies of the following documents that have been translated into Spanish: a City Mission Statement including information on when to call 911; pamphlets on domestic violence, how to make travel safer and more enjoyable, and how to make a home safer; and a Gang Resistance Education and Training guide. Additionally, as discussed in Section I.C.3 of this Compliance Review Report, the CDP supplies its officers with cards containing the Miranda Warnings in English and Spanish. The CDP also provided OCR with a Language Identification Guide where a LEP individual can point to the language that the individual speaks; CDP command staff said that CDP tries to maintain a Language Identification Guide at each of the district stations.

The CDP said in its data response that the vendor Language Line translated the above-referenced documents into Spanish, and that CDP distributes the documents to the public through officer interaction, at community and educational meetings, and by having the documents available at public facilities. Additionally, CDP's bilingual communications specialist told OCR that she translated the above-referenced City Mission Statement into Spanish. Several officers with whom OCR spoke reported carrying domestic violence pamphlets and forms with them to distribute in the community, and one officer reported carrying the Language Identification Guide in the field. The OCR did not observe any translated documents at any of the CDP facilities that OCR toured. During OCR's interviews with patrol officers, several officers recommended that CDP translate more documents and forms into foreign languages, and translate the Miranda Warnings into additional foreign languages.

As for signage, the CDP said in its data response that it does not have any signs in foreign languages at its facilities. However, at the Second Police District station, OCR did observe a sign in Spanish stating "Stop - Police Only Beyond This Point," along with a sign in Spanish regarding Narcotics Anonymous. The City of Cleveland's website (www.city.cleveland.oh.us), which contains information pertaining to the CDP, is entirely in English.

Recommendations for CDP

While the CDP is currently taking steps to provide services to LEP persons, such as using bilingual CDP employees and Language Line and translating a few documents into Spanish, the CDP should build on these steps to provide more effective language assistance to LEP individuals. As an initial matter, the CDP should expand on Divisional Notice 06-293 and develop a comprehensive, written plan on providing services to LEP persons in a variety of contexts, including field and walk-in encounters, interviews and interrogations, arrests, complaint processing, and community outreach. In these protocols, the CDP should advise employees to obtain language assistance services from qualified bilingual employees, Language Line, or other identified resources, and that employees should use family members, friends, or bystanders to interpret only in unforeseen, emergency circumstances while awaiting a qualified interpreter.

Once the CDP has established and formalized its written plan, it should immediately train all employees on the plan to ensure that all employees are aware of the proper procedures for providing language assistance services. Following this initial training, the CDP should establish annual training sessions focused specifically on providing language assistance services to LEP individuals. As part of its training program, the CDP may wish to show the enclosed training DVD *Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice*. Other law enforcement agencies have found this DVD particularly helpful in training employees on how to provide services effectively to LEP populations. Additionally, please also find enclosed a CD-ROM, entitled *Espanol for Law Enforcement*, which is an interactive training tool that covers basic Spanish phrases and sentences relative to law enforcement. The CDP may want to use this CD-ROM to enhance its existing language courses. This CD-ROM may be duplicated; alternatively, additional copies may be requested from the Department of Justice by contacting the National Institute of Justice at (800) 851-3420 or by visiting the following website: <http://www.ojp.usdoj.gov/nij/pubs-sum/201801.htm>.

To ensure the accuracy of interpretation and translation services provided by bilingual employees, the CDP should implement an objective testing process for assessing the language skills of all of its bilingual employees, not just the bilingual communications specialists. These tests should go beyond testing an employee's skill of communicating in a foreign language and should assess the particular skill of interpreting, which requires listening to something in one language and orally conveying its meaning into another language. A bilingual employee may have the skills to converse with another person in a foreign language but may not have skills to provide competent interpretation in that language, and therefore it is essential for law enforcement agencies to ensure that the bilingual employees providing language assistance are competent in the specific skill of interpretation. Similarly, the CDP should test its bilingual employees' written translation skills, which involves rendering written communication in one language into the writing of another language. An objective testing process does not need to involve a formal certification process. For example, the CDP could test employees' interpretation skills through oral review panels comprised of officers, language professors from

local colleges or universities, and community group members who are competent to interpret, and could assess written translation skills through written tests developed by these individuals.

After ensuring that employees are qualified to provide interpretation, the CDP should make sure that all qualified interpreters from CDP are listed on the "Foreign Language Roster," and that this list is frequently updated. The Roster should include the contact information for each employee, and should indicate whether the employee has the ability to interpret or translate. The CDP should then provide this list to all CDP employees.

To increase the number of bilingual employees who are available to provide language assistance services, the CDP should increase its efforts to recruit bilingual officers and civilian employees, particularly those who speak languages that employees reported encountering, such as Spanish, Arabic, Chinese, Polish, Russian, Korean, and Vietnamese. The CDP may wish to consider providing additional compensation to all officers who demonstrate proficiency in a foreign language, as well as paying for CDP employees to take foreign language classes during their regular duty hours.

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

In accordance with the DOJ Guidance, the CDP should perform an inventory of all of its written materials, identify the documents it considers "vital," and translate these documents into the languages that meet the safe harbor threshold. Based on the 2006 Census data, it appears that the Spanish-speaking LEP populations of the City of Cleveland clearly meet the 1,000 person safe harbor threshold. Although the data is less clear for other language groups, their presence may also meet the safe harbor threshold. The CDP should take steps to translate all of its vital documents into the languages that meet this threshold, such as any documents relating to a citizen's rights or the provision of consent. Additionally, the CDP should ensure that the Office of Professional Standards translate the Citizen Complaint Form and all written correspondence to complainants into languages that meet this threshold.

The CDP's continued use professional translation services by Language Line is a good way to ensure the accuracy of translated materials. If the CDP utilizes bilingual employees to translate documents, it should implement quality control measures to ensure the accuracy of translated materials and to make sure that all of the information is being conveyed to LEP persons. The accuracy of translated materials could be ensured by having a second, independent translator, such as an officer, a professor from a local university, or a community member who has demonstrated competency in translation, to verify the work of the primary translator. The CDP may also wish to use "back translation," where the primary translator can translate the document, and a second, independent translator could translate it back into English to ensure that the appropriate meaning has been conveyed. Once the CDP translates the vital documents and ensures their accuracy, it should then develop a strategy for distributing the materials to the relevant LEP communities. The CDP should also post a sign(s) in the primary languages of its largest LEP populations in the lobbies of its police stations and other places of public contact stating that on request, free language services are available. The CDP should make sure that important information regarding CDP services available in English on the City of Cleveland's website is also available in Spanish.

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

D. Available Resources

The CDP's fiscal year is from January 1 to December 31. According to the CDP's data response, it budgeted a total of \$176,634,179 for operational expenses in Fiscal Year 2006, and spent \$398.03 of that amount on language services; during the onsite visit, CDP command staff told OCR that the \$398.03 was spent on Language Line services. The CDP's data response states that it budgeted \$2,000.00 for language services in Fiscal Year 2008.

Along with Language Line, CDP bilingual employees serve as the CDP's principal resource for communicating with LEP persons. As OCR discussed in Sections I.C.6 and I.C.7 of this Compliance Review Report, the CDP has worked with the City's Department of Community

Relations to translate recruitment material into Spanish and Vietnamese, and recently worked with the Spanish newspaper El Barrio to recruit Spanish-speaking officers. Other than the bilingual communications specialist, the CDP currently does not provide bilingual employees with any additional compensation or benefits for providing language assistance services. One employee with whom OCR spoke mentioned that CDP has a tuition reimbursement program for employees who take a foreign language class; however, it is not clear how many employees have participated in this program. The CDP uses bilingual employees from the Department of Community Relations to provide interpretation at meetings with LEP communities, and has access to a list of bilingual employees from City departments and community organizations who have volunteered to provide language assistance services.

Recommendation

The CDP should undertake a review of its human and capital resources in assessing how well it is responding to the needs of its LEP populations. One part of this review should include gathering feedback from the local LEP service population on how the CDP can provide more effective language assistance services, as discussed on page 17 of this Compliance Review Report. The CDP should also work with community groups serving LEP populations to determine what additional steps it can take to attract more bilingual employees capable of interpreting and translating, particularly in Spanish, Arabic, Chinese, Polish, Russian, Korean, and Vietnamese. To this end, the CDP should also consider providing incentive pay or bonuses for all CDP employees who interpret or translate along with paying for officers to attend foreign language classes in the most frequently-encountered languages. The CDP may also utilize the City's Department of Community Relations and local community organizations to identify all of the community resources that are available to provide cost-effective and reliable language assistance services to the City's LEP populations.

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

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

Recommendation

The CDP should expand on its existing orders relating to LEP and develop a comprehensive, written language assistance plan that incorporates the five elements referenced above and addresses the concerns raised in this Compliance Review Report. In doing so, the CDP may wish to consult the DOJ Guidance, along with the following documents: (1) Planning Tool for Creating a Language Assistance Policy and Plan in a Law Enforcement Agency; (2) Limited English Proficiency Resource Document: Tips and Tools from the Field; and (3) a sample written

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language assistance plan. These documents are available online at <http://www.lep.gov>, and should assist the CDP in preparing a language assistance plan or a general order on services to LEP persons. The OCR also suggests that the CDP name one person on staff to be responsible for coordinating services to LEP persons. This person's first task might be to review this report and OCR's recommendations to develop a formal language assistance plan that will become familiar to every employee at CDP.

Conclusion

This letter serves as notice that OCR has made a preliminary determination that the CDP appears to be taking steps to provide meaningful access to its programs and activities to LEP persons. However, the CDP should build on these steps to ensure compliance with Title VI. On request, the OCR is available to provide technical assistance to CDP in implementing its recommendations and formulating a written language assistance plan. **Immediately upon receipt of this letter, we ask that a responsible CDP official contact Attorney Advisor Shelley Langguth to develop a timeline and goals for developing a written language assistance plan for your agency.**

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

Yours very truly,

/s/
Michael L. Alston
Director

cc: Director Martin L. Flask
City of Cleveland Department of Public Safety

Assistant Director of Law Nancy Kelly
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Commander O'Neil
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