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Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

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Certified Mail: Return Receipt Requested

Michael J. Szczerba
Chief of Police
Wilmington Police Department
Public Safety Bldg.
300 N. Walnut St.
Wilmington, DE 19801

Re: Wilmington, Del. Police Dep't Compliance Review (09-OCR-0223)

Dear Chief Szczerba:

I am writing to report the findings of the compliance review of language services at the Wilmington Police Department (WPD), conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ). The OCR would like to thank the WPD staff, especially Lieutenant Ruth Townsend, for assisting OCR attorneys Debra Murphy and Christopher Zubowicz during this review. This letter serves as a draft Compliance Review Report, which is being offered as a courtesy to the WPD. The WPD has 30 days from the date of this letter to provide the OCR with any factual correction to the content of the Report.

In my letter of March 4, 2009, I informed you that the OCR has selected the WPD 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 WPD's provision of services to people who are limited in their English proficiency (LEP) as a result of their national origin. An LEP person is a person whose primary language is not English and who has a limited ability to read, write, speak, or understand English.

In June 2002, the DOJ published guidance for its financial assistance 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 (June 18, 2002) [hereinafter DOJ Guidance]. Using the technical assistance standards in the DOJ Guidance, the OCR initiated this compliance review to determine the extent to which the WPD has taken reasonable steps to provide meaningful access to its programs and services for LEP persons.

After a thorough evaluation of the WPD's services and activities, including the WPD's responses to the OCR's data request and the information the OCR gathered during its onsite visit, which included interviews with department officials, command staff, sworn officers, and representatives from LEP communities, the OCR issued a draft Compliance Review Report on December 8, 2009. The OCR provided the WPD with 30 days in which to notify the OCR of any factual corrections to the draft report. Having received none, we are issuing the following report in accordance with 28 C.F.R. §§ 42.107(a), 42.206(e). In regard to the limited scope of our review, the OCR concludes that the WPD is taking some steps to provide LEP persons with meaningful access to police services. However, the WPD 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. The following Compliance Review Report contains recommendations based on the DOJ Guidance that the WPD may find helpful in developing policies to improve its services to LEP individuals.

Compliance Review Report

This Compliance Review Report closely tracks the structure of the DOJ Guidance by assessing the WPD's obligation to provide LEP services and then reviewing the elements that the WPD could include in an 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 served or encountered in the eligible service population; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program; and (4) the resources available to the recipient and the related costs. 67 Fed. Reg. 41,459-61. In considering the application of these four factors to the WPD, the OCR offers the following observations and recommendations.

A. The Number or Proportion of LEP Persons Served or Encountered in the Service Population

Based on recent data from the U.S. Census Bureau,¹ the City of Wilmington (Wilmington) has an estimated population of 60,390 residents age five and older; of this group, 8,233 (13.6%) speak a language other than English at home, and 2,819 (4.7%) speak English "less than very well."

¹ This data is taken from the Census Bureau's most recent American Community Survey (ACS), which bases its estimates on data collected over a 3-year time period. These estimates represent the average characteristics of the population between January 2006 and December 2008 and do not represent a single point in time.

Selected Social Characteristics in the United States, Wilmington, Delaware, 2006-2008 American Community Survey 3-Year Estimates. U.S. Census Bureau at <http://factfinder.census.gov> (last visited Sept. 22, 2009). Of those individuals age five and older who speak a language other than English at home, the language proficiency can be summarized as follows: (1) 6,282 speak Spanish, and 2,448 of those Spanish-speakers speak English "less than very well;" (2) 1,293 speak an Indo-European language, 124 of whom speak English "less than very well;" (3) 507 speak an Asian and Pacific Islander language, 206 of whom speak English "less than very well;" and (4) 151 individuals speak another language, 41 of whom speak English "less than very well." *Id.*

The WPD does not have data about the languages spoken or the number of LEP residents in each particular police service area.² However, the WPD reports that the Hilltop neighborhood, which extends into two service areas, has a high concentration of Hispanic residents.

Recommendation

The WPD should analyze additional sources of information to determine more accurately the language assistance needs of its service population. For example, many police departments have found helpful the data collected by local school districts regarding languages spoken by enrolled students in a given area. These data provide information about the foreign language groups in a particular area and their relative size, and would be particularly useful in assessing the language needs of juveniles. Additionally, the WPD could consult community organizations, religious groups, social service providers, legal aid entities and local government to identify populations who would benefit from specific language assistance services. The WPD should periodically review LEP population shifts to determine whether it needs to revise certain aspects of its language assistance plan.

B. The Frequency with which LEP Persons Come into Contact with the WPD

As discussed more fully in Section I.C.1. of this Compliance Review Report, the WPD uses Language Line for many encounters that require interpretation. However, it does not analyze information from Language Line to determine what languages are requested, or what type of encounters requires interpretation. The only data that the WPD collects about language services comes from the Bilingual Victims Case Coordinator, who works in the Criminal Investigations Unit and coordinates services to non-English-speaking crime victims and witnesses. In its response to the OCR's data request, the WPD reported that it provided Spanish language assistance to 280 individuals between January 1, 2008 and April 30, 2009 through the Victim Services Case Coordinator; it did not report that it provided language assistance in any language other than Spanish. As explained more fully in Sections I.C. and II.A. of this Compliance Review Report, the WPD has several bilingual staff who provide interpretation services in a

² The WPD divides Wilmington into "service areas" for the purpose of dispatch, but a patrol officer can respond to an incident in any part of the city. Additionally, Wilmington has eight city council districts, and the WPD has eight captains whose responsibilities correspond to those districts.

variety of encounters. However, the WPD has no system in place for documenting the language assistance being provided by its own employees.

Recommendation

The WPD should enhance its system for gathering information about contacts with its LEP population, which would allow it to assess more accurately the language needs of Wilmington's residents. It should, at a minimum, regularly analyze the use of Language Line, document the language services provided by bilingual staff and officers, and document all interactions with the public where an LEP individual may have required language assistance but the WPD was unable to provide it. The WPD can choose how it would like to collect and track this information, but it should include information about the language spoken by the LEP person, the type of interaction (i.e., emergency call, field encounter, arrest, interview, or customer service), and the WPD's response. The WPD should then tabulate all of the data on an annual basis to determine the evolving language needs of its LEP service population.

C. The Nature and Importance of the WPD's Programs and Activities

The WPD does not have a written language assistance plan that comprehensively addresses the provision of language services to LEP individuals. Given this lack of general policy guidance, the following explains how the WPD meets the needs of LEP individuals in a variety of circumstances.

1. Emergency Calls

The WPD's Communications Center (WILCOM) responds to 911 calls for police assistance inside the city of Wilmington: if a caller needs fire or ambulance assistance or is calling for police assistance from outside the WPD's jurisdiction, the WILCOM call-taker transfers the call to the appropriate responder. The WILCOM call-takers are the first point of contact for 911 callers. The WPD currently uses Language Line for calls from LEP individuals, and call-takers report that Language Line is "hot keyed" on the WPD's Computer Aided Dispatch (CAD) system, meaning that they need only push one key to dial the Language Line service. All information necessary to use Language Line is taped to the call-taker's computer monitor, including the WPD's account code and basic instructions for use. The CAD fields that the call-taker uses to record information about the situation do not have a place specifically designed to record language needs, but call-takers report that if a caller needs language assistance, they would note that in a "narrative" field in the CAD system. The WPD reports that it also has two Spanish-speaking bilingual call-takers.

If the caller requires on-site assistance, the call-taker alerts the dispatcher. The dispatcher never talks to the caller, but rather responds based solely on the information that the call-taker entered into the CAD system. If the caller needs on-site assistance, the dispatcher sends an officer to the scene. If the call-taker has recorded the language needs in the narrative field, then the dispatcher

can relay that information to the officer being sent to the scene; if the call-taker did not note the language need in the narrative field, then the dispatcher has no independent way of assessing language needs.

If an LEP caller requires emergency on-site assistance, the dispatcher sends the first available officer, irrespective of the officer's language ability. In a non-emergency situation involving an LEP person, the dispatcher tries to locate a bilingual officer first, but may send a mono-lingual officer if necessary. If a mono-lingual officer is dispatched to respond to an LEP caller, that officer would diffuse the situation while waiting for a bilingual officer to arrive. The dispatcher has a list of officers on duty at all times, and, time permitting, could send a bilingual officer. When the OCR inquired how a dispatcher knows the language ability of various officers, the WILCOM staff said that dispatchers "just know" who is bilingual; alternatively, the dispatcher would ask the WILCOM supervisor or the patrol supervisor to identify any on-duty bilingual officers.

2. Field Encounters and Walk-Ins

The WPD's first option when encountering an LEP individual in the field or during a walk-in is to use a bilingual officer or staff member to interpret. As noted in Section I.C.1. of this Compliance Review Report, WILCOM dispatches the first available patrol officer in emergency situations, even when language assistance is noted by the call-taker. When language assistance is required, however, the WPD makes an effort to get a bilingual officer to the scene as soon as possible. A representative of the WPD said that, if necessary, Language Line can be accessed remotely from the field until bilingual officers arrive. In interviewing patrol officers, the OCR found that not all officers are aware that Language Line can be used for field encounters. Additionally, it is important to note that few of the WPD's bilingual officers speak anything other than Spanish; for language assistance other than Spanish, officers often use informal interpreters, such as family members, witnesses, and bystanders.

If an LEP individual walks into the police station for assistance, the WPD similarly tries to locate a bilingual officer or staff member to interpret. There are two WPD staff members whose job responsibilities include providing language services, and they are often called on to interpret for LEP individuals who walk in for assistance. As mentioned previously, the WPD employs a Bilingual Victims Case Coordinator in the Criminal Investigations Unit, whose responsibilities include providing support and advocacy to Spanish-speaking crime victims. Several WPD staff members, at different levels in the department, report using this individual as an impromptu interpreter. Additionally, the WPD employs a Spanish-speaking Police Report Specialist in the Support Services Division, whose job description includes providing language services. Because the Support Services Division handles all police records, vehicle releases, and property retrieval, the WPD explained that the division is often the first point of contact for members of the public who walk into the police station. The WPD, therefore, sought Spanish-speaking applicants for the Police Report Specialist position. In addition to interpreting for Spanish-speaking individuals who seek assistance from the Support Services Division, the Police Report Specialist

reported to the OCR that she is pulled away from her post approximately ten to fifteen times per week to interpret in connection with other encounters throughout the WPD. The Victims Case Coordinator and the Police Report Specialist work regular business hours only. In addition to these two staff members, the WPD employs twenty-four bilingual staff and officers, all but three of whom speak Spanish; the other bilingual employees speak Mandarin Chinese, Filipino, and Polish.

3. Interviews and Interrogations

In conducting interviews and interrogations of LEP individuals, the WPD follows the same procedure described above, which involves locating a bilingual officer or staff member: the WPD has one bilingual detective. Sometimes, the Delaware Department of Justice (DDOJ) arranges for a certified interpreter for police interviews. One officer whom the OCR interviewed stated that if a bilingual officer is used to interpret during an interview, the bilingual officer might pose questions to the witness, rather than function solely as an interpreter. The interviewing officer documents the identity of the interpreter in the report, and the interpreter is generally included on any future subpoena list. The officer then prepares the witness statement based upon the interview and includes the statement as part of the report; the witness does not sign the statement. In felony investigations, all interviews are audio and video recorded. If the interview is conducted in a language other than English using an interpreter, the tapes are transcribed back into English, using a service paid for by the DDOJ. The WPD also has Miranda statements translated into Spanish, that a Spanish-speaking suspect reads and signs.

If an LEP juvenile is interviewed, the same procedure applies. If the juvenile speaks English, but the parents are LEP, the WPD would still secure an interpreter to communicate with the parents. At least one officer stated that he might use a youth to interpret for LEP parents in some circumstances. The WPD, however, would never use a youth to interpret for his/her own parents if the youth was the suspect.

4. Arrests and Detention

When an LEP suspect is taken into custody, the WPD follows the similar procedure described above, which involves using a bilingual officer for interpretation. After a suspect is taken into custody, s/he is transported to the WPD, and the arresting officer will search the detainee and remove his/her property. If a bilingual officer is located and dispatched to the scene, that same officer remains with the suspect and conducts all aspects of processing the arrestee at the WPD headquarters.

When the WPD arrests a juvenile, the first priorities are to locate a parent or legal guardian [hereinafter "family member"] and to contact the Family Services Division of the Department of Services for Children, Youth and Their Families (DSCYF). The WPD described its attempts to locate a family member as continuous until such a person is located. If the juvenile informs the WPD officer that a family member is LEP, then the WPD relies on a bilingual officer or staff

member to initiate contact. If the WPD cannot locate a family member, then the juvenile is remanded to the state and the DSCYF stands in for the family member in court. If the juvenile or family members are LEP, the WPD relays this information to the DSCYF staff, so that the DSCYF can arrange language services for its contact with the youth and/or family member. If the WPD transports the juvenile to one of New Castle County, Delaware's juvenile detention facilities, such as the New Castle County Detention Center, then the WPD relays information about language needs to the individual performing intake at the facility.

5. Complaints

The WPD's Office of Professional Standards (OPS) handles complaints from members of the public, which must be made in writing.³ The complaint forms are translated into Spanish and are available at the WPD headquarters, the mayor's office, the house sergeant's office, the Latin American Community Center (LACC) and other community and civic locations. The complaint forms at the WPD headquarters are not openly displayed; a complainant must request one. The Captain of the OPS is responsible for reviewing complaints that involve civil rights violations and has the discretion to assign an investigator or not. The WPD maintains a log of citizen complaints, which includes a general description of the allegation. The WPD has never received a complaint that involves language access. One of the WPD's Captains, however, who is Hispanic and bilingual in Spanish, noted that he has an excellent working relationship with the LACC. As a result, Spanish-speaking citizens often contact him directly about issues with the WPD; those situations have not escalated to formal complaints.

6. Community Outreach

The WPD reaches out to LEP communities in several ways. The WPD has a Community Policing Unit, whose officers are assigned to specific sectors of Wilmington. Those officers seek to develop relationships with the public within their assigned sectors and to serve as a public safety resource. Additionally, each of the WPD's eight Captains is assigned a geographic area of Wilmington in which he or she continually assesses community needs. During the OCR's on-site visit, the WPD reported that its Captains hold two to three meetings per month in their assigned area aimed at addressing a variety of community concerns, including those that may be related to language assistance. In connection with these meetings, the Captains reach out to several organizations that may represent the interests of LEP communities, including the LACC, Voices Without Borders, and the Latino Victims Subcommittee of the Victim's Rights Task Force. The Captains prepare monthly reports summarizing their efforts and highlighting community concerns, which are submitted first to the mayor and then to the police chief. The WPD distributes Spanish language pamphlets to the public through the Community Policing Unit and the Captains' regular community meetings, particularly about crime victimization and the

³ The International Association of Chiefs of Police recommends that "[t]here should be no restriction on the means of receiving a complaint." Complaints may be made in writing, over the phone, in person, or any other means, including anonymously. See Int'l Ass'n of Chiefs of Police Nat'l Law Enforcement Center, *Investigation of Employee Misconduct* (2001).

WPD's victim advocacy services. In addition, the WPD runs new-officer recruitment ads and other public service announcements in English and Spanish.

The WPD highlighted two initiatives that particularly affect LEP communities. First, in cooperation with the DSCYF, the WPD operates a program called Child Development through Community Policing (CDCP) that provides social service assistance to children and families who have witnessed or experienced violence. A bilingual clinician is on the CDCP staff, which, according to the WPD, enables the program to provide vital services within LEP communities. Second, the WPD coordinated "Operation Safe Surrender" with the U.S. Marshals Service, which encouraged fugitives wanted for non-violent offenses to surrender in a faith-based or other neutral setting. The WPD incorporated several language services into the initiative by advertising the event with translated documents and using court-certified interpreters to facilitate the event.

During the OCR's onsite review, it met with several community groups to discuss the WPD's relationship with LEP members of the public. Community representatives raised many concerns about perceived harassment of immigrants, particularly illegal immigrants, during traffic stops. However, when pressed for specific examples of such instances, community representatives largely spoke of situations appearing to involve other police jurisdictions. Several community members expressed concern about the lack of sufficient bilingual officers and staff members at the WPD, and described delays in getting bilingual officers to the scene when they were needed. In addition, several individuals claimed that the racial and ethnic make-up of the WPD's workforce does not reflect the population of Wilmington. However, there was consistent praise for several individual WPD employees, particularly the Bilingual Victims Case Coordinator and the bilingual Captains.

Recommendation

The WPD should establish a comprehensive, written plan on providing services to LEP persons in various contexts, including emergency calls, field encounters, walk-ins, interviews, interrogations, arrests, detention and complaint processing. In these protocols, the WPD should advise employees to obtain language assistance from qualified bilingual employees, Language Line, or other identified sources, and emphasize that employees should use family members, friends, or bystanders to interpret only in unforeseen, emergency situations, while awaiting a qualified interpreter.

Once the WPD has established and formalized its written plan, it should immediately train all employees on the proper procedure for providing language assistance in the situations listed above, and develop a system for training new employees on an ongoing basis. The WPD should regularly incorporate the WPD's protocols on providing language assistance into officer and employee training, such as roll-calls and other professional development. As part of its training program, the WPD may wish to show the enclosed training DVD *Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice*. Other law enforcement agencies

have found this DVD particularly helpful in training employees on how to provide services effectively to LEP populations.

The WPD also should create a mechanism for gathering community feedback on its provision of services to LEP individuals. For example, the WPD may want to develop a written survey of community groups serving LEP populations, or to convene a focus group of LEP individuals. The WPD may also consider holding separate meetings with each LEP community, perhaps in collaboration with community, business, and religious leaders representing LEP populations, so that the WPD can hear the LEP communities' unique needs regarding outreach.

D. The Resources Available to the WPD

The WPD's fiscal year is from July 1 through June 30. According to the WPD's data response, its operational budget was \$43,187,986 in fiscal year 2007 and \$42,773,645 in fiscal year 2008, and it spent nothing on language assistance in either year. The OCR notes that, although the WPD noted in its response to the OCR's data request that none of its budgeted operational expenses was spent on language services, the WPD appears to be under-reporting its language expenditures given its salaried employees with interpretation responsibilities and the cost of using Language Line.

Along with Language Line, the WPD's bilingual employees serve as a significant resource for communicating with LEP persons. Of particular note, the WPD specifically sought funding for the Bilingual Victim Case Coordinator after determining a need for such a position, and attempts to employ a sufficient number of bilingual employees in the Support Service Division. The WPD, however, provides no additional compensation or benefits to employees who provide interpretation services, despite some of those employees reporting spending a significant amount of their time interpreting.

Recommendation

The WPD should undertake a review of its human and capital resources in assessing how well it is responding to the needs of LEP populations. One part of this review should include gathering feedback from the local LEP populations about how the WPD can provide more effective language assistance services. As mentioned in Section I.C.6., the WPD has developed relationships with several community organizations that represent the interests of LEP populations, and the WPD could use those contacts to identify additional community resources that are available to provide cost-effective and reliable language assistance and to determine what additional steps it can take to meet the needs of LEP individuals.

To increase the number of bilingual employees who are available to provide language assistance, the WPD should increase its efforts to recruit bilingual officers and civilian employees, particularly those who speak languages that the WPD determines to make up the greatest number or proportion of LEP individuals in the service population. Toward this end, the WPD should

consider providing incentive pay or bonuses for all WPD employees who interpret or translate and pay for officers to attend foreign language classes in the most frequently-encountered languages.

II. Providing Language Services

According to the DOJ Guidance, once a recipient of federal financial assistance assesses (1) the number or proportion of LEP persons served or encountered in the eligible service population; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program; and (4) the resources available to the recipient and the related costs, it should decide how best to provide language assistance services. To provide the foregoing public services to LEP populations, the WPD offers both oral and written language assistance.

A. Oral Interpretation Services

The DOJ Guidance describes oral interpretation is the "act of listening to something in one language (source language) and orally translating it into another language (target language)." DOJ Guidance, 67 Fed. Reg. at 41,461. The WPD command staff, patrol officers and civilian employees with whom the OCR spoke identified three primary ways in which the WPD provides oral language assistance to LEP individuals: (1) through Language Line; (2) through bilingual officers and civilian employees; and (3) through the use of family, friends, witnesses or bystanders.

As discussed in Section I.C.1. of this Compliance Review Report, the WPD uses Language Line to respond to 911 calls from LEP persons, and may also use this service during face-to-face encounters in the field or in the station. The State of Delaware contracts for a telephonic interpreter service [Language Line], and several government agencies in the State, including the WPD, use the service. The State separately bills the WPD for its use of Language Line. While the WPD stated that Language Line can be accessed during different types of encounters, it appears that only the WILCOM call-takers use it. Several employees in other parts of the WPD stated that they were unaware of the existence of Language Line.

In its response to the OCR's data request, the WPD provided several documents that relate to training call-takers to use Language Line. First, the WPD provided a copy of a memorandum dated September 17, 1993, from the WPD's Office of Public Safety to all communications personnel. This memorandum announces the introduction of Language Line as a new resource for all personnel and describes how to use it. Second, the WPD provided a training manual published by AT&T that describes the features and operation of Language Line in more detail. Third, the WPD provided the OCR with a copy of the training module that it uses to train call-

takers.⁴ Fourth, the WPD provided a document entitled "Call-Taker Handbook," which describes how to respond to a variety of calls, including those involving accidents, burglaries, alarms, domestics, drug violations, shots fired, officer in trouble, robberies and suspicious person; this handbook does not mention LEP callers or Language Line. The call-takers whom the OCR interviewed stated that they are re-trained in the use of Language Line approximately once or twice per year.

Outside of calls handled by the WILCOM, the primary way that the WPD provides interpretation services is through the use of bilingual employees. The WPD identified twenty-six employees who speak a language other than English, all of whom are classified as "conversational" in their non-English language proficiency. Twenty of the employees are officers and six are civilian personnel; twenty-four speak Spanish, one speaks Filipino, one speaks Mandarin Chinese, and one speaks Polish. However, the WPD does not maintain a roster listing these employees who purport to have specific language abilities. Through interviews with the WPD staff, it appears that these bilingual employees are not advertised within the department as available for interpretation; supervisors and other personnel "just know" who is bilingual or which WPD units have several bilingual employees. The WPD encourages individuals to self-identify as bilingual on their employment application, but does not use any system for verifying or testing the language proficiency of those employees. In fact, several staff members that the OCR interviewed indicated that some employees who identified themselves as bilingual were ineffective when actually called upon to interpret. The WPD states that it actively tries to recruit new Spanish speaking officers by broadcasting television recruitment advertisements in Spanish. It also distributes officer recruitment flyers in Spanish. The WPD states that it does not, however, consider language skills in making promotion decisions, nor does it provide additional compensation or benefits to employees for providing interpretation services. The curriculum for cadets at the Police Academy also includes a session on "survival Spanish," although officers interviewed by the OCR stated that the training was of limited practical benefit.

Regarding the use of family members, friends, witnesses and bystanders to interpret for LEP individuals, most WPD staff that the OCR interviewed viewed this as a less-than-ideal option. However, they acknowledged that in some situations, such as when the language spoken is not Spanish or a bilingual employee is en route to the scene, they rely upon non-WPD employees to interpret. By way of example, one officer interviewed described responding to a burglary at a Chinese restaurant and using an employee to interpret for the Chinese-speaking restaurant owner. He stated, however, that he would not use a bystander to interpret if there appeared to be a

⁴ This training module includes a section entitled "Handling Different Caller Types," which describes how to respond to "foreign-speaking callers." This instruction states, in its entirety, "[p]eople who speak English as a second language may be able to converse casually in English, but under the stress of a critical incident may be unable to do so. Some PSAPs [public safety answering points] have telecommunications or other employees who are multilingual; others subscribe to language services. Language services have people on duty 24 hours a day, seven days a week and are available by telephone. Telecommunicators can conference the caller with an interpreter who determines which language is being used and which translator can help the caller. The telecommunicator should learn the process for handling foreign-speaking callers within their PSAP" [Include pinpoint citation to training module]

conflict of interest or if confidentiality seemed to be paramount, such as in a domestic violence situation.

Recommendation

To maximize the benefits of Language Line, and to provide interpretation services in languages other than Spanish, the WPD should ensure that all officers and civilian employees are trained in using Language Line. It appears that the call-takers in the WILCOM receive adequate training in using Language Line during telephone calls, but the WPD is not maximizing the use of that service during non-telephonic situations or by employees other than call-takers. Few employees outside of the WILCOM that the OCR interviewed knew how to access Language Line, and some did not know of its existence. The WPD should institute more comprehensive training in the use of Language Line and ensure that directions for its use, including the WPD's access code, are posted in all work stations of employees who have contact with the public.

To ensure the accuracy of interpretation services provided by bilingual employees, the WPD should implement an objective testing process for assessing the language skills of all of its self-identified bilingual employees. 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 the 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. An objective testing process does not need to involve a formal certification process. For example, the WPD 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. Additionally, all employees who function as interpreters should understand that they are to remain completely neutral when providing language assistance. For example, when interpreting during an interview, the interpreter never interjects his or her own questions or comments into a conversation between the English-speaking WPD employee and the LEP individual.

After ensuring that employees are qualified to provide interpretation assistance, the WPD should make sure that a list of qualified interpreters is maintained, updated frequently, and shared widely within the department. The roster of qualified interpreters should include the contact information for each employee and should note whether each employee has the ability to interpret, to translate, or both. The WPD should ensure that all employees are trained in the proper procedure for requesting the assistance of a bilingual employee from the roster.

B. Written Translation Services

According to the DOJ Guidance, “[t]ranslation is the replacement of a written text in one language (source language) into an equivalent text in another language (target language).” DOJ Guidance, 67 Fed. Reg. at 41,463.

In its response to the OCR’s data request, the WPD identified several written documents for which it had Spanish-language versions. According to the WPD, the following Spanish-language documents are available in common areas of the police station or handed out by Community Policing Unit officers and its Victim Services Unit: (1) “Has your child experienced violence or trauma?,” (2) “Click It or Ticket. We’re turning up the heat on unbelted motorists.” (3) “Delaware’s Seat Belt Law - What you need to know.” (4) “Advocate for Victims of Crime.” (5) “Division of Child Mental Health Services: Safety - Stability - Self-Esteem - Sense of Hope,” (6) “Delaware Division of Substance Abuse and Mental Health: We’re here to help.” (7) “Spend \$25 or less on prescription medication with Medicare Part D.” (8) “Wilmington Department of Police Victim Services:” and (9) citizen complaint forms. Only the last two documents are actually created and translated by the WPD. The department also posts some building signage in Spanish, although the OCR noted that there was a general lack of signage at the police headquarters. On the WPD’s Web site, the contact information for the Victims Services Unit is in Spanish. Additionally, some correspondence from the WPD to Spanish-speaking citizens is mailed in Spanish, particularly letters from the Victim Services Unit and the Child Development through Community Policing Unit. In interviewing WPD employees, however, it appears that not all officers and civilian staff are aware of the availability or location of translated documents. No documents have been translated into languages other than Spanish.

The WPD also has several language resources that are designed to assist officers communicate with Spanish-speaking members of the public. It has a booklet for officers entitled “Spanish Language Aid for Incident Response” that contains common phrases in English and Spanish that are used during roadside assistance. This booklet is published by the State Highway Administration and the Coordinated Highways Action Response Team. The WPD also created a pocket-sized card for officers with common phrases in English and Spanish that might be used during traffic stops, domestic violence situations and general investigations; one of the bilingual officers interviewed stated that he helped develop this card. The WPD also has Spanish-language Miranda Warnings.

Recommendation

In regard to written materials, while the WPD has translated several documents into Spanish, including Miranda Warnings, the complaint form and commonly-needed phrases, the WPD should take additional steps to ensure compliance with Title VI. The DOJ encourages recipients to satisfy the “safe harbor” provision in the DOJ Guidance when determining what documents to translate. *See* DOJ Guidance, 67 Fed. Reg. at 41,464. This provision states that, to satisfy the safe harbor, 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 the 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 WPD 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 Wilmington’s Spanish-speaking LEP population meets the 1,000 person safe harbor threshold. Although the data are less clear for other language groups, their presence may also meet the safe harbor threshold. The WPD should periodically evaluate whether it should translate vital documents, such as materials relating to a citizen’s rights or the provision of consent, into additional languages.

If the WPD utilizes self-identified bilingual employees to translate documents, it should test those employees’ written translation skills, which involves rendering written communication in one language into the writing of another language. It also 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 WPD 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 WPD translates the vital documents and ensures their accuracy, it should then develop a strategy for distributing the materials to relevant LEP communities. The WPD should also post a sign(s) in the primary languages of its largest LEP populations in the public areas of its police station and other places of public contact stating that, on request, free language assistance services are available. The WPD should make sure that important information regarding WPD services that is available on its Web site in English is also available in Spanish.

III. Developing an Effective Language Assistance Plan

According to the 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 WPD should establish a comprehensive, written language assistance plan on providing services to LEP persons that incorporates the five elements referenced above and addresses the concerns raised in this Compliance Review Report. In doing so, the WPD may wish to consult the DOJ Guidance, along with the following documents: (1) Planning Tool for Creating a Language Assistance Policy and Plan in a Law Enforcement Agency, (2) Limited English Proficiency Resource Document: Tips and Tools from the Field, and (3) a sample written language assistance plan. These documents are available at <http://www.lep.gov> and should assist the WPD in preparing a language assistance plan or a general order on services to LEP persons. The OCR also suggests that the WPD name one person on staff to be responsible for coordinating services to LEP persons. This individual's first task might be to review the Report and the OCR's recommendations to develop a formal language assistance plan that will become familiar to every WPD employee.

IV. Conclusion

This letter serves the OCR's final determination that the WPD is taking some steps to provide meaningful access to its programs and activities to LEP persons. However, the WPD should build on these steps to ensure substantial compliance with Title VI and the Safe Streets Act. On request, the OCR is available to provide technical assistance to the WPD in implementing its recommendations and formulating a written language assistance plan. Immediately upon receipt of this letter, we ask that a responsible WPD official contact Attorney-Advisor Debra Murphy to develop a timeline and goals for developing a written language 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. Murphy at (202) 305-0667.

Sincerely,



Michael L. Alston
Director

Enclosures