



U.S. Department of Justice

Office of Justice Programs

*Office for Civil Rights*

July 19, 2012

Washington, D.C. 20531

VIA CERTIFIED AND ELECTRONIC MAIL

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

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

Dear Commissioner Kelly:

In January 2010, the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice notified you that the OCR selected the New York City Police Department (NYPD or Department), as a recipient of federal financial assistance, for a civil rights compliance review in accordance with Title VI of the Civil Rights Act of 1964 (Title VI), the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), and their implementing regulations. The compliance review focused on the NYPD's provision of services to limited English proficient (LEP) individuals. In connection with its preparation of a Compliance Review Report (Report), the OCR conducted onsite visits on April 13-23 and June 8, 2010.

On November 8, 2010, the OCR issued its Report to the NYPD,<sup>1</sup> which contained forty-six recommendations to ensure the Department's compliance with Title VI and the Safe Streets Act, in accordance with the DOJ's published guidance document.<sup>2</sup> After the OCR issued its Report, the NYPD proactively implemented various corrective action items in response to the OCR's recommendations. As part of these remedial measures, the Department refined its language access training for sworn and civilian members of the service. On March 6, 2012, the OCR conducted a third site visit to observe the language access training provided by the Department to personnel at Precinct No. 109 in Flushing, Queens. Below, the OCR (1) describes several of the NYPD's significant responses to the OCR's Report recommendations, (2) provides feedback on the language access training it recently observed, and (3) concludes that the NYPD is in substantial compliance with the standards set forth in the DOJ Guidance.

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<sup>1</sup> See New York City Police Dep't, No. 10-OCR-0015, Office for Civ. Rts. Compl. Rev. Rep. (U.S. Dep't of Justice Nov. 8, 2010), available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/nypdcompliancecivereport.pdf>.

<sup>2</sup> Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002) (DOJ Guidance).

## **I. Notable Responses to Compliance Review Report Recommendations**

The OCR commends the NYPD for taking prompt and substantial steps to respond to the recommendations contained in the OCR's Report and to strengthen its provision of language services to LEP communities throughout New York City. We especially appreciate the Department's diligence in promulgating various policies and procedures regarding language access. Of particular note, since the issuance of the OCR's Report, the NYPD implemented orders that accomplish the following:

- explain the processes for securing interpretation and translation assistance in the field, at Department facilities, and within the Internal Affairs Bureau;<sup>3</sup>
- provide members of the service with citywide access to a telephonic interpretation service;<sup>4</sup>
- ensure that language assistance resources are available at point-of-service locations;<sup>5</sup>
- require documentation that a member of the service used an interpreter, or that an interpreter will be required in the future, in connection with the investigation of certain complaints;<sup>6</sup>
- require documentation by a member of the service of the need for an interpreter in communicating with a prisoner or a parent or guardian of a juvenile;<sup>7</sup>

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<sup>3</sup> Interim Order No. 31, Revision to Patrol Guide 212-90, "Volunteer Language Program/Language Line" (Aug. 26, 2011); Interim Order No. 13, Translation of Department Written Material (Apr. 1, 2011); Procedure No. 620-40, Revision No. 11-02, Internal Affairs Bureau Guide, Guidelines for Obtaining Translators and Translation Services for IAB Investigators (Mar. 22, 2011).

<sup>4</sup> Operations Order No. 9, Citywide Expansion of Pilot Program – Telephonic Interpretation Service (Feb. 10, 2012).

<sup>5</sup> Interim Order No. 32, Revision to Patrol Guide 202-11, "Operations Coordinator," at 1 (Aug. 26, 2011).

<sup>6</sup> *Id.* at 1-2 (revising Patrol Guide Procedure Nos. 207-07 ("Preliminary Investigation of Complaints (Other Than Vice Related or Narcotics Complaints)"), 207-30 ("Civilian Complaints – Witness Statements"), 207-31 ("Processing Civilian Complaints"))).

<sup>7</sup> *Id.* at 3, 5 (revising Patrol Guide Procedure Nos. 208-03 ("Arrests – General Processing"), 208-09 ("Rights of Persons Taken Into Custody"), 208-15 ("Arrests Report Preparation at Stationhouse"), 210-01 ("Prisoners General Procedure"))).

- describe the protocol for providing language assistance in connection with family offense and domestic violence matters;<sup>8</sup>
- explain the protocol for handling Domestic Incident Reports;<sup>9</sup> and
- describe the benefits under its Career Program of being a qualified interpreter.<sup>10</sup>

In addition, the NYPD issued a revised Language Access Plan on June 14, 2012, which provides helpful guidance to the public about the Department's various efforts to provide language assistance services to LEP individuals.

## **II. OCR Training Observations**

In response to the OCR's Report, the NYPD revised its training curriculum to provide additional detailed guidance to sworn and civilian personnel on communicating effectively with LEP individuals. According to the Department's thirteen-page lesson plan for this subject, after receiving the training, personnel should be able to do the following:

- (1) identify an individual's need for oral language assistance;
- (2) evaluate, when providing language services to an LEP person, whether to rely on (a) a bilingual member of the service, (b) a bilingual member of the public, (c) the NYPD's telephonic interpretation service, or (d) the Department's Language Initiative Program;
- (3) access (a) the telephonic interpretation service and (b) the Language Initiative Program;
- (4) record the identity of any interpreter who provides assistance;
- (5) understand the mechanics of working with an interpreter; and
- (6) be aware of (a) the NYPD's Community Affairs Bureau's Immigrant Outreach Unit and (b) the information that is available to LEP persons on the Department's Web site.

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<sup>8</sup> *Id.* at 4 (revising Interim Order No. 34, series 2010 ("Revision to Patrol Guide 208-36, 'Family Offenses/Domestic Violence'")).

<sup>9</sup> *Id.* at 5 (revising Patrol Guide Procedure No. 208-70 ("Processing of New York State Domestic Incident Reports in the Domestic Violence Database")).

<sup>10</sup> Interim Order No. 17, Revision to Patrol Guide 205-15, "Police Officer's Career Program" (May 2, 2011).

The lesson plan allots twenty minutes to achieve these broad learning objectives and provides a clear outline for an instructor to follow in discussing the material to be covered.

To evaluate the effectiveness of this training, on March 6, 2012, the OCR observed two training sessions at Precinct No. 109 in Flushing, Queens; the first session involved sworn members of the service while the second session included sworn and civilian personnel. In both training sessions, the instructor effectively conveyed information about several topics. He provided helpful information about identifying an individual's need for language assistance and distributed materials to personnel on identifying an LEP individual's language. The trainer also explained the protocols for accessing the Department's telephonic interpretation service and Language Initiative Program and noted the importance of documenting basic information about an interpreter who provides language assistance to facilitate a particular communication. In addition, the instructor emphasized the importance of not relying on an LEP person's family members for language assistance.

While the instructor provided useful information to participants during these training sessions, the NYPD could strengthen several critical areas of its language access training.<sup>11</sup> Based on the OCR's onsite visit, we make three general observations that likely warrant further review by the Department as it continues to monitor and develop this aspect of its training program.

- During both training sessions, the trainer noted, without sufficient explanation, that personnel, in interacting with LEP individuals, should, as a first resort, rely on individuals who have no certified foreign-language ability. Under Department policy, however, and as reflected in the lesson plan, personnel should carefully consider several factors *before* relying on language assistance from a member of the public or non-certified members of the service. Moreover, there are multiple settings in which reliance on such persons for language assistance would not be appropriate. Thus, within this framework, reliance on individuals whose foreign-language abilities may be unreliable is the exception to the general rule that personnel should use unequivocally qualified language assistance to communicate with LEP persons. In both training sessions, however, the instructor exalted the exception over the rule. The NYPD may wish to review more carefully the ability of training sergeants to describe the Department's language access policies, including the importance of relying on qualified telephonic or in-person interpreters for certain interactions.
- During both training sessions, the trainer provided insufficient information to satisfy several of the performance objectives of the training, as identified by the Department's lesson plan. He did not convey any information to participants about certain topics, such as the role of the Immigrant Outreach Unit or the availability of online materials; he also

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<sup>11</sup> While the OCR limited its onsite training observations to two training sessions at Precinct No. 109, the NYPD should carefully consider whether our suggestions for improvement at this precinct can be applied to the provision of language access training at the Department's other point-of-service locations.

covered in a cursory fashion other areas, such as the process for identifying whether bilingual individuals are available to provide language assistance and the mechanics of working with an interpreter. The instructor also did not reference or distribute Interim Order No. 31, Patrol Guide 212-90, even though the lesson plan designates that order as student material. As part of an enhanced review of its training process, the OCR encourages the NYPD to evaluate whether training sergeants sufficiently address all critical aspects of its language access curriculum. To ensure that personnel receive sufficient information on each learning objective, the Department may wish to consider covering the curriculum during two or more successive training sessions.

- The instructor did not consistently conduct the two training sessions, even though they covered the same subject matter as described in the Department's lesson plan and occurred mere hours apart from one another at the same location. During the first session, the training lasted approximately ten minutes and provided little in-depth information about any topic. In contrast, the second session consisted of a twenty-minute presentation that provided more detail about various language access issues and elicited more questions from the participants. Given these markedly contrasting approaches, the NYPD should monitor more carefully its training sessions to ensure that training sergeants, in discussing language access issues, consistently satisfy the objective minimum standards contemplated by the lesson plan.<sup>12</sup> As part of its ongoing review of this training program, it may also be helpful for the Department to attempt to measure the effectiveness of this curriculum in providing sufficient information to personnel and in improving interactions with LEP individuals.

### **III. Conclusion**

While the OCR encourages the NYPD to make further refinements to its language access training program for sworn and civilian personnel, we recognize that the Department has made significant progress in enhancing its ability to interact effectively with LEP persons. The OCR has thoroughly reviewed the NYPD's responses to the Report and concludes that the Department is in substantial compliance with the standards set forth in the DOJ Guidance. Given the Department's implementation of various appropriate language access measures, including those discussed above, at this time we will administratively close this matter.

I would like to thank the NYPD for its continued cooperation during the course of the compliance review and the professional courtesies that Department personnel extended to the OCR Investigative Team, George Mazza, Christopher Zubowicz, and Joseph Swiderski, during the compliance review. If you have any further questions regarding this matter, please contact

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<sup>12</sup> The OCR recognizes that the second training, unlike the first session, included civilian personnel and did not occur between work shifts. Based on the NYPD's language access lesson plan, these distinctions do not appear to be material ones. The lesson plan is designed for all members of the service and applies the same performance objectives to sworn and civilian personnel, regardless of whether they participate in the training at the beginning of their shift or at some later point in their shift assignment.

Raymond W. Kelly, Police Commissioner  
New York City Police Dep't  
July 19, 2012  
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Mr. Zubowicz at 202.305.9012. He remains available to provide the NYPD with assistance as you continue to take steps to provide the most effective services to LEP communities throughout New York City.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Alston". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael L. Alston  
Director

Enclosure

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