



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

CERTIFIED-RETURN RECEIPT REQUESTED

October 24, 2007

Chief of Police Colonel Dean Esserman
Providence Police Department
325 Washington Street
Providence, RI 02903

Director Ashbel T. Wall
Rhode Island Department of Corrections
40 Howard Avenue
Cranston, RI 02920

Re: Compliance Review of the Providence Police Department and Detention Services
of the Rhode Island Department of Corrections (05-OCR-0040)

Dear Colonel Esserman and Director Wall:

I am writing to report the findings of the compliance review of language services at the Providence Police Department (PPD), conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice. Since the Rhode Island Department of Corrections (RIDOC) provides detention services for the PPD, OCR's compliance review also included language services at the RIDOC detention centers. The OCR would like to thank PPD and RIDOC staff, especially PPD Captain Steve Malaragno, RIDOC Assistant Director Jake Gadsden, and RIDOC Chief Legal Counsel Patricia Coyne-Fague, for assisting OCR attorneys George Mazza and Shelley Langguth during the compliance review and their July 2007 onsite visit.

In my letter of March 6, 2007, I wrote to inform Colonel Esserman that OCR had selected the PPD 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. On that date, I also wrote to Director Wall to inform him that as part of this review, OCR would be evaluating the detention services provided by the RIDOC on behalf of the PPD. As I noted at that time, OCR limited the scope of the compliance review to the PPD's and RIDOC'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.

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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 PPD and RIDOC are providing language services to LEP persons.

After a thorough evaluation of the PPD's and RIDOC's services and activities, including the PPD's and RIDOC'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 September 11, 2007, in accordance with 28 C.F.R. §§ 42.107(d)(2) and .206(e). In an October 24, 2007, email, Captain Malaragno stated that PPD did not find any factual inaccuracies in the draft report. Similarly, in an October 22, 2007, email, Ms. Coyne-Fague said that the draft report is factually correct as it relates to RIDOC.

In regard to the PPD, with respect to the limited scope of our review, we conclude that PPD is taking steps to provide LEP persons with meaningful access to police services. However, the PPD needs to 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 developing a written language assistance plan for LEP persons. The following Compliance Review Report contains recommendations based on the DOJ Guidance that the PPD may find helpful in developing policies to improve its services to LEP individuals.

In regard to the RIDOC, in accordance with the limited scope of our review, OCR also finds that the RIDOC appears to be taking steps to provide LEP inmates and visitors with meaningful access to its detention services. However, the RIDOC also needs to take further action to ensure that it is complying with Title VI and the Safe Streets Act, including developing a comprehensive written language assistance plan. On pages 14-18 of this Compliance Review Report, OCR discusses the language services that RIDOC currently provides within its detention facilities and makes recommendations for how the RIDOC can improve its services to LEP persons.

Compliance Review Report

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

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

The PPD provided OCR with a map demonstrating that it divides the City of Providence into nine police districts. The PPD also submitted a chart prepared by The Providence Plan¹ based on 2000 Census data, which provides the overall racial and ethnic composition of the City along with the composition of each police district. According to this chart, in 2000, the overall racial and ethnic composition of the City's 173,618 citizens was as follows: 79,451 (46%) Whites; 22,103 (13%) Blacks; 1,446 (1%) Native Americans; 10,303 (6%) Asians; 52,146 (30%) Hispanics; and 8,169 (5%) citizens classified as Other, defined as "2 or More Races, Pacific Islander, and Other Race."

The 2000 Census data provides a breakdown of individuals classified as "Asian" or "Hispanic." U.S. Census Bureau, Profile of General Demographic Characteristics: 2000, Providence city, Rhode Island at www.census.gov. According to the 2000 Census data, of the 10,432² Asian individuals residing in the City in 2000, 1,055 were Asian Indian; 1,479 were Chinese; 437 were Filipino; 269 were Japanese; 573 were Korean; 215 were Vietnamese; and 6,404 were classified as Other, defined as "Other Asian alone, or two or more Asian categories." Of the 52,146 individuals who were Hispanic, 2,237 were Mexican; 12,712 were Puerto Rican; 468 were Cuban; and 36,729 were classified as Other (no definition provided).

During the onsite visit, PPD officials told OCR that it does not have data on the languages spoken by the service population, but that the majority of LEP individuals they serve speak Spanish, followed by individuals who speak an Asian dialect. Based on recent data from the U.S. Census Bureau, in 2005, the City of Providence had an estimated population of 146,602 residents age five and older; of this group, 47,928 spoke Spanish, and more than half of this number (25,429) spoke English less than "very well," which OCR considers LEP. U.S. Census Bureau,

¹ The Providence Plan is a non-profit organization that conducts data analysis on issues such as economic development, public safety, health, jobs, and education in the City of Providence.

² While the chart prepared by The Providence Plan lists the City's total Asian population in 2000 as 10,303, the 2000 Census data lists it as 10,432.

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American FactFinder, Providence city, Rhode Island at <http://factfinder.census.gov>. This data further indicates that 10,449 residents age five and older spoke other Indo-European languages, with 3,539 speaking English less than “very well;” 8,276 spoke Asian and Pacific Island languages, with 4,127 speaking English less than “very well;” and 836 spoke other languages, with 57 speaking English less than “very well.”

Recommendation

The PPD 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 PPD 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 PPD utilizes the services of Language Line Services, a private vendor that provides interpreters for over 150 languages. The City of Providence’s Communications Department, an independent municipal agency, handles both emergency and non-emergency calls for PPD services. When a Communications Department operator receives a call from a LEP individual, the operator may contact Language Line for interpretation. During OCR’s onsite visit, PPD officials and sworn officers stated that PPD officers also have the option of contacting Language Line for interpreting services during the course of their duties.

PPD officials explained that Language Line provides PPD with reports upon request, itemizing PPD calls³ by language and listing the total minutes, total calls, average length of calls, percentage of total minutes, and cost. According to the latest Language Line report, from January 1, 2006 through May 31, 2007, the PPD used Language Line 1,367 times. Of these calls, 96.1% involved a request for a Spanish interpreter; the other requested languages, including Portuguese, Mandarin, Somali, Hmong, Vietnamese, and Cambodian, each represented less than 1% of total calls. Aside from the data obtained from Language Line, PPD officials told OCR that the PPD does not otherwise collect information on contacts with LEP individuals. PPD officials further explained that unless a report is necessary, PPD does not document contact with a member of the public.

While the Language Line reports provide some helpful information, Language Line data underestimates significantly the PPD’s frequency of contact with LEP individuals. Language

³The “PPD calls” include calls from the City’s Communications Department that relate to requests for PPD services, along with calls from PPD officers.

Line only captures the situations when the PPD or Communications Department used Language Line; 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 PPD or the Communications Department did not contact Language Line. During the onsite interviews, Communications Department operators stated that they sometimes resolve telephonic encounters with LEP persons without using Language Line, such as using the language skills of co-workers or bilingual officers. And while one operator told OCR that if a caller needed language assistance an operator would note this in the narrative section of the report forwarded to dispatch, the PPD does not track this information.

Recommendation

The PPD should establish reliable systems for gathering information on contacts with its LEP service population. Supplementing the reports of Language Line, the PPD 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 operator or other interpreter spent with the LEP caller. The PPD 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 PPD 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 PPD's response to the need for language assistance. The PPD should 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

As previously stated, the City's Communications Department handles the emergency (911) and non-emergency (311) calls for police services. Based on OCR's onsite visit, OCR understands that the Communications Department also handles calls for the City's Fire Department, and provides dispatching services for both PPD and the Fire Department. During the onsite visit, Communications Department staff told OCR that if they receive a call from a LEP individual, they contact Language Line for language assistance using a one-button link on their phone, or use a bilingual co-worker or officer to interpret. One Communications Department operator said that if a caller did not speak English, the operator would note that in the narrative section of the report that is forwarded to dispatch and dispatch could relay that information to the responding officer. The operator explained to OCR that should a LEP caller hang up before Language Line gets on the line, if it is a 911 call, the operator can track where the call came from and will call back or send an officer to the location.

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During OCR's discussions with representatives from LEP communities, one representative complained that when LEP persons call for police services they may wait for up to twenty minutes before Language Line comes on the line.

2. Field Encounters and Walk-Ins

In its data response, the PPD stated that it has no written policies regarding the provision of language assistance to LEP persons. According to the PPD, if PPD employees need an interpreter during field encounters, walk-in encounters, and other law enforcement situations, they use bilingual PPD employees or Language Line for assistance. The PPD further noted that officers regularly use friends or relatives who are on scene to interpret.

During OCR's onsite interviews, patrol officers told OCR that the vast majority of LEP individuals they encounter speak Spanish. The officers stated that if they encounter a LEP person in the field, they attempt to locate a bilingual officer to provide interpretation. The officers told OCR that if they are aware of a particular officer who speaks the needed language, they use their personal cell phone to contact that officer directly or specifically request that officer over the radio. The officers explained that they generally know which officers speak a particular language, especially within their own district. The officers told OCR that if they are not aware of any officers who speak a needed language, they use the radio to request that dispatch send them an officer who speaks that language. Several officers said that they have never had a situation where they could not locate an appropriate bilingual officer.

According to the officers interviewed by OCR, if a bilingual employee was not available, officers would contact Language Line for assistance; however only two officers with whom OCR spoke had ever used Language Line. Command officers at the district stations that OCR visited stated that they rarely have individuals walk in or call the district stations for assistance.

During OCR's onsite meeting with PPD officials, the PPD officials included a representative from Family Services of Rhode Island, a non-profit organization serving LEP communities which partners with the PPD. The representative told OCR that Family Service of Rhode Island sometimes rides along with PPD officers and provides assistance as necessary, including interpretation services in Spanish and Portuguese.

Regarding the use of family members, friends, or bystanders to interpret, almost every officer whom OCR interviewed reported regularly using these individuals, including children, to interpret. In fact, several officers told OCR that when encountering a LEP person in the field they first try to find someone on the scene to interpret, and if no one is available, then they try to contact a bilingual officer. Many of the officers identified several situations where they would not use a friend, family member, or bystander to interpret, such as when a LEP person is being arrested; if the friend, family member, or bystander was a suspect in a crime; if the situation

involved a major felony; if the friend or family member was a passenger in a traffic stop; or in a domestic violence situation, particularly if the friend or family member was a child. However, it should be noted that two of the officers with whom OCR spoke specifically mentioned using children to interpret in domestic violence situations. Several officers stated that they often do not need an interpreter when encountering LEP individuals in the field, as the officers can somehow communicate with the LEP individuals and “make themselves understood.”

During OCR’s discussion with community representatives, a number of people raised concerns over how PPD officers assist LEP persons in the field. One representative complained that when the PPD responds to calls involving LEP persons, if the responding officer does not speak the LEP person’s language, the officer will leave the scene and subsequently return with an appropriate bilingual officer, often several hours later. Additionally, several representatives expressed concern over officers’ handling of domestic violence situations involving LEP persons. One representative spoke of an incident where an officer allegedly used a child to interpret during a domestic violence call, and another representative stated that officers have become exasperated during domestic violence calls when the victim did not speak English.

3. Interrogations

In conducting interrogations of LEP persons, PPD follows the same procedures described above, which involve locating a bilingual officer to interpret or calling Language Line. During the onsite visit, PPD officials told OCR that the PPD often tape records its interrogations, and if a LEP individual gives a statement in a foreign language, a bilingual PPD officer will later translate it into English.

4. Arrests and Bookings

Once the PPD takes a criminal suspect into custody, the PPD brings the suspect to the Detention Unit at PPD Headquarters; the suspect remains at the Detention Unit no longer than overnight. (The RIDOC provides more long-term detention services for PPD, as discussed in Section I.C.8 of this Compliance Review Report.) The PPD provided OCR with its procedures for booking and detention; however, these procedures do not address the booking and detention of LEP individuals. See General Order # 37. According to a Detention Unit employee, when arresting and booking a LEP individual, PPD employees again rely on bilingual employees or Language Line for language assistance. Additionally, the employee stated that the Detention Unit also has used other detainees or third-parties to interpret for a LEP detainee.

The PPD has a Miranda Rights card translated into Spanish that it uses when arresting a Spanish-speaking individual. The forms completed by the Detention Unit when a suspect arrives at the facility do not have a place to indicate whether a suspect is LEP.

5. Complaints

The PPD provided OCR with its most recent complaint procedures; these procedures do not address the receipt of complaints from LEP individuals. See General Order 130.01. Briefly, members of the public can complain of alleged police misconduct in person, over the phone, or in writing, and PPD's Internal Investigations and Inspections Division (Internal Investigations) is responsible for investigating all complaints. The PPD has a standard written complaint form. An Internal Investigations official explained to OCR that complainants may complete this form themselves, or Internal Investigations staff may complete the form while speaking to complainants. According to General Order 130.01, the PPD holds a mandatory hearing on every complaint, and the Chief of Police forwards a copy of his final decision to all interested parties.

The Internal Investigations official explained to OCR that if Internal Investigations receives a complaint from a LEP individual, it uses a bilingual officer from the division to interpret. The division has officers who speak Spanish, Portuguese, and Chinese. According to the official, during the past four-and-a-half years he has not encountered a complainant who spoke a language other than English or Spanish. The official further stated that PPD provides an interpreter at the mandatory complaint hearing, and he is not aware if the Chief's decision is ever transmitted in a language other than English. The PPD provided OCR with a complaint form translated into Spanish; however, the Internal Investigations official told OCR that the Spanish version might only be available at the Internal Investigations office. During the onsite visit, OCR could only locate an English version of the complaint form in the lobby of PPD headquarters. The PPD also has an Internal Investigations Complaint Pamphlet that currently is available only in English; the Internal Investigations official stated that he plans on translating this pamphlet into other languages.

The PPD reports that it has not located any complaints alleging ineffective communication with a LEP person for the period of January 1, 2004, through March 6, 2007.

6. Community Outreach

The PPD reaches out to LEP groups through community meetings conducted at the district level. During the onsite visit, PPD officials told OCR that the PPD provides interpreters, such as bilingual officers or bilingual employees from Family Service of Rhode Island, at community meetings with LEP populations. The PPD officials stated that PPD has attended monthly community meetings run by a community group serving Guatemalans, and one Spanish-speaking officer told OCR that he provided interpretation at a meeting held by an organization in a Hispanic community. One officer with whom OCR spoke said that the community groups often provide their own interpreters at community meetings.

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The PPD told OCR that it also reaches out to Hispanic communities by using the local Spanish radio station to notify individuals of available translated documents, to discuss upcoming festivals, and to recruit Spanish-speaking officers. Additionally, the PPD places advertisements in Spanish newspapers such as Providence en Espanol, Providence American and Nuevos Horizontes to recruit Spanish-speaking officers. The PPD also meets with Hispanic community groups as part of this recruitment effort.

The PPD officials stated that they do not notify LEP communities that the PPD offers free language assistance services, and most of the officers with whom OCR spoke with confirmed that PPD did not provide this information to LEP communities. One officer told OCR that he suspects that many LEP persons are unaware that PPD provides language services free of charge, and that it has been difficult to communicate this information to LEP populations.

During OCR's discussions with community representatives, some noted that the PPD has been making an effort recently to be more sensitive to LEP communities, such as inviting LEP representatives to speak to new officers about their cultures. Several representatives praised the PPD's efforts to recruit minority applicants. To build upon the PPD's efforts, community representatives recommended that the PPD conduct more meetings with LEP populations to determine each population's specific needs. However, one representative cautioned that LEP persons generally are not comfortable going to the PPD for assistance, based partly on a belief that officers will not speak their language.

7. General Language Services

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

a. Oral Language Services

The PPD officials and patrol officers identified three ways in which the PPD provides oral language assistance to LEP individuals: (1) through Language Line; (2) through bilingual PPD employees; and (3) through friends or family members of LEP individuals or third-party bystanders.

As previously noted in this Compliance Review Report, the PPD uses Language Line to respond to telephone calls from LEP persons, and may also use this service during face-to-face encounters. Language Line provides interpretation for over 150 different languages. While Language Line appears to be useful to the Communications Division in responding to emergency and non-emergency calls for service, it appears that few PPD officers use this service.

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The PPD states that for non-telephonic encounters with LEP persons, prior to using Language Line, officers attempt to locate a bilingual employee for language assistance or utilize a friend or family member on scene to interpret. In its data response, the PPD attached a list of bilingual PPD employees; during the onsite visit, PPD officials clarified that the PPD compiled this list only in response to OCR's data request, and that the PPD does not maintain or distribute this list. Following the onsite visit, the PPD provided OCR with a revised list of 58 employees, out of approximately 601 PPD employees, who speak a language other than English. The majority of employees (45) speak Spanish, and the other spoken languages are Chinese, Italian, Cambodian, French, Filipino, Hmong, Korean, Portuguese, Japanese, and Cantonese. As OCR discussed in the previous section of this Compliance Review Report, it appears that the PPD currently is taking steps to recruit more Spanish-speaking officers.

The PPD officials stated that until recently, the PPD did not evaluate the language proficiency of employees that serve as interpreters. Bilingual officers informed OCR that they listed their language skills on their application. According to PPD officials, the PPD began performing language proficiency tests of new applicants during the most recent round of hiring. This testing process utilizes a five-person oral review board proficient in the language being tested; the review board reads a scenario in the language being tested and the officer responds in that language. The PPD officials told OCR that the officer's response must be "coherent" to demonstrate proficiency, and that PPD has the resources to test for proficiency in Spanish and Portuguese but would use the International Institute of Rhode Island for other languages. The PPD does not test the language skills of current employees under this system, and does not train bilingual employees on how to serve as interpreters.

Applicants for the PPD who demonstrate language proficiency receive two additional points toward their overall applicant score. The PPD does not compensate bilingual officers for serving as interpreters, and does not take language skills into account when making promotion decisions or assignments. One bilingual officer told OCR that at the time he went through the academy, the PPD had promised some form of compensation for language skills but that program never occurred. Bilingual officers told OCR that they serve as interpreters throughout all police districts, and also respond to requests for language assistance from other law enforcement agencies within the state. These officers also said that PPD has never requested that they provide language assistance after duty hours.

The majority of bilingual officers with whom OCR spoke with said that serving as an interpreter did not interfere with their regular duty assignments; however, one officer told OCR that requests for language assistance sometimes interfered with writing a report or responding to the officer's own calls. One officer who speaks Cambodian said that members of the Cambodian community generally know when he is on duty and specifically request his assistance. Several officers told OCR that the PPD needs to recruit more Portuguese- and Cambodian-speaking officers.

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Regarding the use of family members, friends, and bystanders to interpret, as explained in the section on field encounters and walk-ins, PPD officials and patrol officers report regularly using these individuals to interpret. Additionally, as also discussed in the section on field encounters and walk-ins, several officers told OCR that they often do not need to obtain any language assistance for LEP individuals, as they are able to somehow communicate using English.

As noted previously in this Compliance Review Report, the PPD does not have a written policy for providing oral language assistance to LEP persons, and it appears that the PPD provides little training on this issue. The PPD officials told OCR that when officers are in the police academy, the PPD tells them that if they encounter LEP persons they should request a bilingual officer over the radio or call Language Line for assistance. The PPD further stated that the Communications Division attends each police academy to provide an overview on how to access Language Line. However, several officers with whom OCR spoke with said they could not recall receiving any training on how to provide assistance to LEP individuals, and one officer told OCR that he had no idea how to access Language Line.

The PPD officials also told OCR that in the last academy, the PPD included a 20-hour course on Spanish for police officers. One officer with whom OCR spoke recommended that the PPD offer a mandatory, 20-week course in Spanish that police officers must attend. Similarly, community group representatives recommended to OCR that the PPD pay for officers to attend foreign language classes.

b. Written Language Services

In its data response, the PPD stated that it translates certain documents into languages other than English based on the frequency of use. During the onsite visit, PPD officials told OCR that the most frequent calls for service involve domestic violence, and therefore many of its translated materials relate to domestic violence. The PPD officials said that they provide translated documents to the public by making them available at the police stations and having officers distribute them in the field and at community meetings. The PPD officials explained that the PPD uses bilingual officers to translate documents into Spanish, and once had a bilingual employee at City Hall review a translated document for accuracy. For languages other than Spanish, the PPD said it uses the International Institute of Rhode Island for translation services. According to PPD officials, the PPD utilizes the local Spanish radio station to notify the public of documents that have been translated into Spanish.

The PPD has provided OCR with the following documents translated into Spanish: a complaint form; consent to search form; instructions for viewing lineups; Miranda Rights; consent to submit to a breathalyzer forms; and one section of the domestic violence/sexual assault reporting form. The PPD also provided the following translated pamphlets: pamphlets translated into Spanish on domestic violence, victims' rights, victims of crime, domestic violence victims'

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rights, and after-school opportunities, and a pamphlet translated into Portuguese on domestic violence. The PPD officials told OCR that in the past they also had recruitment pamphlets and a “click it or ticket” poster translated into Spanish. Additionally, when OCR visited the District 2 substation, it obtained pamphlets translated into Spanish on domestic violence and on services offered by the Family Service of Rhode Island. During the onsite visit, OCR did not observe any signage at PPD headquarters or at the district stations OCR visited (Districts 2, 4, and 9) that was in a language other than English.

Based on OCR’s interviews with patrol officers, it does not appear that officers regularly distribute the available translated materials to the public. Although some officers told OCR that they carry domestic violence pamphlets translated into Spanish to distribute to the community, several other officers said they do not carry any translated materials with them, even though they were aware of the translated domestic violence pamphlets. One officer told OCR that he carries a Miranda Rights card translated into Spanish, and another officer said he carries a pamphlet on the rights of domestic violence victims translated into Spanish, Portuguese, and Cambodian. One officer told OCR that no one ever told him that PPD has translated materials available.

The PPD website, www.providencepolice.com, is entirely in English. During the onsite visit, PPD officials told OCR that they are considering rebuilding their website and may include some information translated into Spanish.

Several community representatives told OCR that the PPD could improve its services to LEP persons by making more forms, letters, and pamphlets available in languages other than English. One representative complained that the PPD currently sends LEP persons correspondence in English, even when the PPD knows that the addressees cannot read or understand English.

Recommendations for PPD

While the PPD is currently taking steps to provide services to LEP persons, such as employing a number of bilingual individuals and translating several frequently-used materials into Spanish, the PPD should build on these steps to provide more effective language assistance to LEP individuals. As an initial matter, the PPD should establish comprehensive, written protocols on providing services to LEP persons in a variety of contexts, including field and walk-in encounters, interrogations, arrests and bookings, complaint processing, and community outreach. In these protocols, the PPD should advise employees to obtain language assistance services from qualified bilingual employees, contract interpretation services, or other identified organizations, and that employees should use family members, friends, or bystanders to interpret only in unforeseen, emergency circumstances while awaiting a qualified interpreter.

Once the PPD has established and formalized its protocols, it should immediately train all employees on the protocols to ensure that all employees are aware of the proper procedures for

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providing language assistance services. Following this initial training, the PPD should establish annual training sessions focused specifically on providing language assistance services to LEP individuals. As part of its training program, the PPD 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 PPD has taken positive action to provide LEP individuals with effective and reliable language assistance services by recently implementing language proficiency tests for new bilingual applicants. The PPD should expand these tests to include proficiency in translation, and should administer these tests to current bilingual employees who provide language assistance as well. 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 speech in one language and orally conveying its meaning into another language. Similarly, tests of a bilingual employee's written translation skills should capture an employee's ability to render written communication in one language into the writing of another language. The PPD should maintain a list of all bilingual employees who have demonstrated proficiency in a foreign language. This list should include the contact information for each employee, what language the employee speaks, and whether the employee has the ability to interpret or translate. The PPD should ensure that this list is constantly updated and distributed to all PPD employees.

To increase the number of bilingual officers who are available to provide language assistance services for PPD, the PPD should step up its efforts to recruit bilingual officers, particularly those who speak Portuguese, Cambodian, and other Asian dialects. The PPD may wish to consider providing additional compensation to officers who demonstrate proficiency in a foreign language, as well as paying for officers to attend foreign language classes in languages that the PPD frequently encounters.

In regard to written materials, while the PPD has taken steps to make various documents and resources available in Spanish, it 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.

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In accordance with the DOJ Guidance, the PPD 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 2000 Census data previously cited, it appears that the Spanish- and Chinese-speaking populations of the City of Providence 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 PPD should also 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 ability of an individual to speak a foreign language does not necessarily mean that the individual has the skills to translate a document from English into the foreign language. 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 PPD 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 PPD translates the “vital documents” and ensures their accuracy, it should then develop a strategy for distributing the materials to the relevant LEP communities.

The PPD also should post a sign(s) in the primary languages of the 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 PPD should make sure that important information available in English on its website is also available in the primary languages of the largest LEP populations.

Regarding community outreach, the PPD is already taking steps to build relationships with LEP communities. To ensure that its outreach efforts are effective, the PPD should establish a mechanism for gathering community feedback on its provision of services to LEP individuals. For example, the PPD may want to develop a written survey of community groups serving LEP populations, or to convene a focus group of LEP individuals. Consistent with the community groups’ recommendation, the PPD should consider holding separate meetings with each LEP community, perhaps in collaboration with community, business, and religious leaders representing the LEP population, so that the PPD can hear the LEP community’s unique concerns. The PPD should continue to work with ethnic media outlets to publicize these meetings and to inform LEP persons of the availability of free language assistance services and other important resources.

8. Detention Services Provided by RIDOC

As noted previously in this Compliance Review Report, other than the PPD’s temporary overnight detention of individuals, the RIDOC provides detention services for individuals arrested by the PPD. The RIDOC has jurisdiction over every adult under correctional

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supervision (including pretrial detention, incarceration, probation, home confinement, and parole) in the State of Rhode Island.

The RIDOC operates a male detention facility, the Intake Services Center, and a female detention facility, the Women's Facility. At the time of OCR's onsite visit on July 26, 2007, the RIDOC stated that it had 1,123 male inmates and 231 female inmates in its detention facilities. A RIDOC official told OCR that during the past few years, there has been an increase in Hispanic and Asian detainees. The RIDOC provided OCR with data showing that on the day of OCR's onsite visit, the inmates in the male facility were 22.43% Hispanic, 0.97% Asian, 0.53% American Indian, and 0.53% Other; in the female facility, the inmates were 10.64% Hispanic, 0.00% Asian, 2.13% American Indian, and 0.00% Other. The RIDOC officials said that inmates are detained for an average of nine days.

The RIDOC currently does not have any written policies governing the provision of services to LEP detainees or visitors; however, RIDOC officials told OCR that the RIDOC is in the process of developing standard operating policies for each facility, which they anticipate will include a section on how to provide services to LEP individuals. In its data response, the RIDOC stated that it uses an ad-hoc approach to obtaining language services for LEP persons detained or visiting its detention facilities, including asking a staff member to interpret, having another inmate interpret, asking a family member or friend accompanying a visitor to interpret, and using a language services provider under contract with the State. The RIDOC provided OCR with a list of 83 correctional officers who speak one or more languages and provide interpretation within the detention facilities; of these officers, 50 speak Spanish, 27 speak Portuguese, eight speak French, six speak Italian, two speak Korean, and there is one officer listed for each of the languages of Arabic, Creole, Hindi, Punjabi, Urdu, Pakistani, and Greek. The RIDOC said that officers on this list self-disclosed their language ability, and OCR understands that RIDOC does not have any testing or certification process for an officer to serve as an interpreter. Additionally, the RIDOC provided OCR with documentation demonstrating that it also obtains language assistance services from Telelanguage Inc.; this vendor provides telephonic interpreting services for RIDOC in over 157 different languages.

The OCR understands that when an inmate arrives at one of the RIDOC's detention facilities, the inmate goes through the intake and committing process, which includes an evaluation by the facility's medical staff and social worker. Following the commitment process, RIDOC officers place the inmate in a cell within the detention facility. One employee from the committing area told OCR that the employee would note the inmate's LEP status somewhere on the intake form or the intake board. Otherwise, the intake and medical forms and the inmate I.D. do not have a specific place to indicate whether an inmate is LEP.

During OCR's visit to the male and female detention facilities, RIDOC employees told OCR that if they encounter a LEP inmate, the employees call the Lieutenant of the relevant detention

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facility to obtain the RIDOC's list of bilingual employees who serve as interpreters. Employees said that they request language assistance from a bilingual employee by calling that officer on the radio or by phone. Several RIDOC employees told OCR that they speak at least a little Spanish and are able to communicate with Spanish LEP inmates. A few of the employees said if they could not locate an appropriate bilingual employee, they would contact the professional telephonic interpreting service for assistance; however, the employees were not aware of the name of the company who provides this service or how to access it. Correctional officers also reported using other inmates to interpret on general questions or non-critical issues. One employee stated that it is often not necessary to obtain an interpreter for a LEP inmate, as the employee may be able to "show" the inmate what the employee is trying to communicate, and another employee said that most inmates speak enough English to get their needs met.

In its data response, the RIDOC stated that it translates into languages other than English policies that are widely used by the public or inmates. According to the RIDOC, most policies are translated into Spanish since this is the language spoken most frequently by its LEP population. The RIDOC uses professional vendors under contract with the State to translate these materials, such as Maria's Translations, Linguistics International, and Intraser. The RIDOC provided OCR with a disc of sixteen policies that are translated into Spanish, including the Code of Inmate Discipline, Inmate Grievance Procedure, Monitoring Inmate Telephone Conversations, Inmate Pay, and Inmate Mail. The RIDOC explained that some of these policies are available to the public by being accessible at the RIDOC detention centers or at the office of the Secretary of the State, and that policies are available to inmates through their law library. During the onsite visit, RIDOC officials stated that they are in the process of revising the RIDOC website and may post some of the policies that have been translated into Spanish.

If an inmate wishes to file a grievance with the RIDOC, the Inmate Grievance Procedure policy and most of the accompanying forms are available in English and Spanish; it appears that the initial Informal Request for Resolution of Grievance form is only in English. During the onsite visit, a RIDOC official told OCR that if a LEP inmate files a grievance, a bilingual officer would provide language assistance as necessary. The RIDOC stated in its data response that it does not have a formal process for accepting complaints from the public.

During OCR's onsite visit of the male detention facility, OCR obtained the following pamphlets translated into Spanish: pamphlets for inmates on sexual assault awareness and sexually transmitted diseases, available in the committing area, and pamphlets for visitors on lead poisoning, immunizing a child, and food safety, available in the visitors' waiting room. Additionally, a sexual assault awareness video that male and female inmates view during the commitment process is presented in English and Spanish. In its data response, the RIDOC provided OCR with copies of numerous signs translated into Spanish that are located throughout the male detention facility, including signs for inmates on the following topics: limited contact visits, items that inmates are prohibited from bringing into court, warnings of disciplinary action

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for the possession of contraband, the prohibition on smoking, and the retrieval of inmate property. The RIDOC also provided copies of signs translated into Spanish for visitors to the male detention facility, such as signs regarding limited contact visits, signs warning that visitors are subject to search or a background check, signs directing visitors to the visiting room, signs listing what items visitors cannot bring into the visiting room, and signs regarding required identification. During the onsite visit, OCR also observed signs translated into Spanish for inmates discussing latex glove allergies and when to pick up medication.

The RIDOC also provided OCR with copies of signs translated into Spanish that it posts in or around its female detention facility. These signs are aimed at Spanish-speaking visitors, and notify visitors that they are subject to search, that RIDOC uses sensing devices to detect drugs, that any person speaking to inmates will lose visiting privileges, and that visitors should not touch the outside gates. During OCR's visit of the female detention center, OCR did not observe any other translated signs and did not see any translated pamphlets or other materials.

Recommendations for RIDOC

While the RIDOC is taking steps to provide services to LEP persons residing in or visiting its detention facilities, such as employing a number of bilingual employees and translating some policies and signs into Spanish, the RIDOC should take further action to provide more effective language assistance to LEP individuals. The RIDOC should develop a written language assistance plan for providing services to LEP persons detained in or visiting its detention facilities. The RIDOC may wish to include this plan in the standing operating procedures that it currently is developing. These procedures should instruct RIDOC employees on how to obtain language assistance services from qualified bilingual employees and contract interpretation services, and that employees should use other inmates and family members or friends of LEP inmates to interpret only in unforeseen, emergency circumstances while awaiting a qualified interpreter. For helpful tips on developing an effective language assistance plan, the RIDOC may wish to review the Planning Tool for Creating a Language Assistance Policy and Plan in a Department of Corrections, found at www.lep.gov/LEP_Corrections_Planning_Tools.htm. See *supra* Part II, pp. 19-20, for further tips on developing a language assistance plan. Once the RIDOC has established and formalized its language assistance plan, it should immediately train all employees on the proper procedures for providing language assistance services.

To ensure the accuracy of interpretation services provided by bilingual employees, the RIDOC should implement an objective testing process for assessing employee language skills. Because the skill of communicating with another person in a foreign language is different from the skill of interpreting, which requires listening to speech in one language and orally conveying its meaning into another language, relying on employees' self-identification of bilingual competency is not the best method of assessing the ability to interpret. An objective testing process does not need to involve a formal certification process. For example, the RIDOC could test employees'

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interpretation skills through oral review panels comprised of correctional officers, language professors from local colleges or universities, and community group members who are competent to interpret. To increase the number of bilingual employees who are available to provide interpretation services, the RIDOC should take active steps to recruit bilingual individuals, particularly those who speak an Asian dialect, and may wish to consider providing additional compensation to employees who demonstrate proficiency in a foreign language.

The RIDOC has taken steps to make numerous documents and signs available in Spanish. However, it should conduct an analysis to determine what further action may be required 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 supra Part I.C.7, p.13, for an explanation of the safe harbor provision. In accordance with the DOJ Guidance, the RIDOC 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. The RIDOC’s continued use of the professional translation services under contract with the State is a good way to ensure the accuracy of translated materials. The RIDOC should also develop a strategy for distributing its translated materials to inmates and the public, as appropriate.

To ensure that both inmates and visitors are aware of the availability of free language services, the RIDOC should post signs in its detention centers stating that on request, free language services are available. These signs should be in the languages of the largest LEP populations that it serves. The RIDOC should also make sure that important information available in English on its website is also available in these other languages.

D. Available Resources

The PPD’s fiscal year is from July 1 to June 30. According to the PPD's data response, it budgeted a total of \$42,514,992 for operational expenses in Fiscal Year 2006, and spent \$10,083.42 of that amount on language services. During the onsite visit, PPD officials clarified that the \$10,083.42 expenditure on language services was solely for the services of Language Line. In Fiscal Year 2007, the PPD budgeted a total of \$43,859,389 for operational expenses, including \$15,000 budgeted for language services. At the time of OCR’s site visit, the PPD did not have the final expenditures for Fiscal Year 2007. The PPD explained that it arrived at a budgeted figure of \$15,000 for language services based on an average of what it spent on Language Line services over the past few years.

Along with Language Line, PPD bilingual employees serve as the PPD’s principal resource for communicating with LEP persons. As OCR previously discussed in this Compliance Review Report, the PPD is taking steps to recruit more Spanish-speaking officers, such as advertising in Spanish media and meeting with Hispanic communities. The PPD currently does not provide

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bilingual employees with any additional compensation or benefits for providing language assistance services.

The PPD officials stated that they have relied upon the non-profit organization Family Service of Rhode Island to provide interpretation at community meetings and in the field, and one officer told OCR that the PPD often utilizes community organizations to provide interpreters at community meetings. The PPD officials said that on one occasion they used City Hall to verify the accuracy of a Spanish translation, and that for languages other than Spanish the PPD relies on the non-profit organization International Institute of Rhode Island to provide translation services. The PPD officials noted that PPD is starting to consider the University of Rhode Island and other local colleges and universities as potential providers of more cost-effective language services.

Recommendation

The PPD 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 PPD can provide more effective language assistance services. Some law enforcement agencies have developed community feedback surveys in the languages of its LEP service population for this purpose, while others have convened focus groups with LEP populations. The PPD 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 Portuguese and some of the Asian dialects such as Cambodian. To this end, the PPD should also consider providing incentive pay or bonuses for PPD employees who interpret or translate along with paying for officers to attend foreign language classes in the most frequently-encountered languages. The PPD may also utilize community groups to identify all of the community resources that are available to provide cost-effective and reliable language assistance services to the City's LEP populations.

II. Developing an Effective 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 PPD should 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 PPD may wish to consult the DOJ Guidance, along with the following

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documents: (1) Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance; (2) Limited English Proficiency Resource Document: Tips and Tools from the Field; and (3) a sample written language assistance plan. These documents are available online at <http://www.lep.gov>, and should assist the PPD in preparing a language assistance plan or a general order on services to LEP persons. The OCR also suggests that the PPD 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 PPD.

Conclusion

This letter serves as notice that OCR has made a preliminary determination that the PPD appears to be taking steps to provide meaningful access to its programs and activities to LEP persons. However, the PPD should build on these steps to ensure compliance with Title VI.

This letter also serves as notice that OCR has made a preliminary determination that the RIDOC is taking steps to provide meaningful access to its detention services to LEP individuals. However, the RIDOC should take further steps to ensure compliance with Title VI.

On request, the OCR is available to provide technical assistance to PPD and RIDOC in implementing its recommendations and formulating a written language assistance plan.

Immediately upon receipt of this letter, we ask that PPD and RIDOC each have a responsible agency official contact Attorney Advisor Shelley Langguth to develop a timeline and goals for developing a written language assistance plan for your agency.

Thank you both 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

Enclosure