



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

CERTIFIED-RETURN RECEIPT REQUESTED

April 11, 2013

John C. MacConnell
Deputy County Attorney
Volusia County Legal Department
123 West Indiana Avenue
DeLand, FL 32720-4613

Re: Compliance Review of the Volusia County Sheriff's Office
Docket No. 10-OCR-0536

Dear Mr. MacConnell:

I am writing to report the findings of the compliance review of language services at the Volusia County Sheriff's Office (VCSO), conducted by the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ). The OCR would like to thank VCSO staff, especially Captain Charles Mandizha, for assisting OCR attorney Shelley Langguth during her April 17-18, 2012, onsite visit.

In my letter of June 13, 2011 to VCSO Sheriff Ben F. Johnson, I informed Sheriff Johnson that the OCR had selected the VCSO 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 VCSO's provision of services to people with limited English proficiency (LEP). An LEP person is an individual whose primary language is not English and who has a limited ability to read, write, speak, or understand English. I also explained that the OCR selected the VCSO for a compliance review in response to an administrative complaint that the OCR received from two Spanish-speaking individuals alleging that the VCSO failed to provide language assistance services during a January 2, 2009, encounter.

In June of 2002, the DOJ 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, the OCR initiated this compliance review to

follow up on the above-referenced administrative complaint to determine the extent to which the VCSO is providing language services to LEP persons.

After a thorough evaluation of the VCSO's services and activities, including the VCSO's responses to the OCR's data requests and the information the OCR gathered during its review, which included interviews with department officials, command staff, and patrol deputies, the OCR sent the VCSO a draft Compliance Review Report on March 8, 2013, in accordance with 28 C.F.R. §§ 42.107(d)(2) and .206(e).¹ In an April 10, 2013, telephone conversation, Captain Mandizha of the VCSO told Ms. Langguth that the VCSO does not have any factual corrections to the draft Report.

In regard to the limited scope of our review, we conclude that the VCSO is not fully in compliance with the requirements of Title VI and the Safe Streets Act, although it is taking steps to provide LEP persons with meaningful access to police services. The VCSO should build on these steps and take further action consistent with the recommendations contained herein 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 VCSO may find helpful in developing policies to improve its services to LEP individuals.

Compliance Review Report

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

¹ As part of the OCR's evaluation of the VCSO, we sent a letter to a number of community organizations serving LEP populations in Volusia County to solicit their perceptions of the services that the VCSO provides to LEP individuals. The OCR did not receive a response from any of the organizations.

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

The VCSO has jurisdiction over the unincorporated sections of Volusia County, and also provides law enforcement services on a contractual basis to the cities of Deltona, DeBary, and Pierson. The VCSO divides its service jurisdiction into the following five patrol districts: District II, District III, District IV, District V, and District VI; each district provides services to the public through a district office and District II also has a substation. Based on recent data from the U.S Census Bureau, from 2009 to 2011, Volusia County had an estimated population of 470,347 residents age five and older; of this group, 410,055 spoke English only, and 60,292 (13%) spoke a language other than English. U.S. Census Bureau, American FactFinder, 2009-2011 American Community Survey 3-Year Estimates, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, Volusia County, Florida at <http://factfinder.census.gov>. Of the 470,347 residents age five and older, 41,991 (9%) spoke Spanish, with 13,408 speaking English less than “very well,” which the OCR considers LEP. *Id.* This data further indicates that 1,955 residents age five and older spoke French, with 316 speaking English less than “very well;” 1,933 spoke Italian, with 689 speaking English less than “very well;” 1,832 spoke German, with 336 speaking English less than “very well;” 1,327 spoke French Creole, with 675 speaking English less than “very well;” 1,057 spoke Hindi, with 461 speaking English less than “very well;” 808 spoke Tagalog, with 379 speaking English less than “very well;” 766 spoke Portuguese or Portuguese Creole, with 354 speaking English less than “very well;” 665 spoke Chinese, with 386 speaking English less than “very well;” and 582 spoke Arabic, with 214 speaking English less than “very well.” *Id.*

In the VCSO’s Response to the OCR’s Data Request (Data Response), the VCSO stated that data on the languages that are spoken by individuals in each patrol district is not available. During the OCR’s onsite interviews, VCSO command staff and deputies told the OCR that the most prevalent foreign language that they encounter is Spanish, and that they have also encountered individuals who speak other foreign languages such as Ukraine, Tagalog, Vietnamese, and Haitian Creole. The command staff and deputies said that the majority of Volusia County’s Spanish-speaking population resides within District IV, followed by District II. The command staff further told the OCR that the resident population of Volusia County is supplemented by many visitors, particularly during the months of January through April, including international visitors from locations such as Africa, Egypt, and the Arab nations.

Recommendation

The VCSO should review the latest data from the U.S. Census Bureau to determine more accurately the language assistance needs of its service population. In addition to U.S. Census Bureau data, many law enforcement agencies have 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 VCSO 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 VCSO's Communications Center primarily relies on Language Line Services, a private vendor that provides telephonic interpretation in over 150 languages. During the OCR's onsite visit, VCSO command staff and employees said that VCSO deputies and civilian employees also have the option of utilizing Language Line from the field or VCSO facilities.

Based on monthly reports that the VCSO receives from Language Line, the VCSO provided the OCR with a summary of the services that Language Line provided to the VCSO from January 1, 2009 through December 2010 and from April 2011 through May 2011, along with a summary of telephonic interpretation services that the contractor OPI temporarily provided from December 2010 to March 2011.² This summary demonstrates that the VCSO contacted Language Line and OPI on 685 occasions during this timeframe. Of these calls, 629 (92%) involved interpretation in Spanish, and the remaining calls involved interpretation in a variety of languages including Mandarin, French, Russian, Vietnamese, Polish, Portuguese, Cantonese, and Italian. Aside from the data obtained from Language Line and OPI, the VCSO does not otherwise collect information on contacts with LEP individuals.

While the Language Line and OPI reports provide some helpful information, this data underestimates the VCSO's frequency of contact with LEP individuals. The data only captures the situations when the VCSO used Language Line or OPI to communicate with an LEP individual; it does not capture field encounters, walk-ins, and interviews and interrogations where another type of language assistance was utilized, or the telephone calls with LEP persons when the VCSO did not contact Language Line or OPI but rather relied on the services of a bilingual call taker. While employees from the Communications Center told the OCR that a call taker notes in the narrative section of the Computer Aided Dispatch (CAD) system if a caller is LEP, it does not appear that the VCSO tracks this information. Similarly, while the deputies with whom the OCR spoke said that they note on an incident report when an individual is LEP and required an interpreter, the VCSO does not track this information.

Recommendation

The VCSO should establish reliable systems for gathering information on contacts with its LEP service population. Supplementing the reports of Language Line, the VCSO should establish procedures for recording and gathering data on all emergency and non-emergency calls from LEP persons that did not involve Language Line, including information on the nature of the call, the language requested, and the length of time a bilingual call taker spent with the LEP caller. The

² During the OCR's onsite visit, Communications Center command staff explained that the VCSO temporarily utilized the services of OPI from December 2010 through March 2011, but was not satisfied with OPI's services and resumed using Language Line for interpretation in April 2011.

VCSO 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 to ensure that all forms contain a separate field where deputies can note if an individual is LEP, the language spoken, and how the VCSO provided language assistance. The VCSO should then tabulate all of the data on an annual basis to determine the language needs of its LEP service population.

C. Important Public Services to LEP Individuals

1. Emergency and Non-Emergency Calls

The VCSO's Communications Center receives all incoming 911 calls for police, fire, and emergency medical services within Volusia County, and is responsible for dispatching services in connection with these calls. The Communications Center also receives all non-emergency calls for VCSO services. As of the time of the OCR's onsite visit, the Communications Center employed approximately 22 call takers and 12 dispatchers; according to the Communications Center command staff, dispatchers can also serve as call takers. The command staff told the OCR that there is at least one Spanish-speaking call taker or dispatcher on each shift, and that Spanish-speaking employees self-identified as being bilingual and the VCSO has not conducted any assessment of their language skills.

During the OCR's onsite visit, the VCSO provided the OCR with its newly developed policy on communicating with LEP individuals, Directive 1.15, *Limited English Proficiency & Language Access Plan* (effective April 2012). According to Directive 1.15, when the Communications Center receives an emergency or non-emergency call from an LEP caller, the call taker shall determine if there is a qualified interpreter available in the call center, and if not, the call taker shall contact Language Line. In its Data Response, the VCSO provided the OCR with a copy of the Communications Center's *E 9-1-1 Emergency Telephone Number Standard Operating Procedure*, which states that when the Communications Center receives a call from a non-English speaking individual and the need for translation³ is apparent, the call taker should contact Language Line via the pre-selected transfer button or dial the direct number for Language Line. During the OCR's onsite visit, a Communications Center call taker and dispatcher explained that for emergency calls, call takers connect to Language Line using a transfer button, and for non-emergency calls, call takers place the caller on hold and dial the telephone number for Language Line. The Communications Center employees told the OCR that when they receive a call from a LEP caller, they first survey the room to see if a Spanish-speaking call taker or dispatcher is available, and if not, they contact Language Line. According to the employees, a call taker will note that a caller is LEP in the report that is forwarded to a dispatcher, and the dispatcher will attempt to dispatch a bilingual officer.

³ Please be advised that the word "translation" refers to the translation of written documents, while the word "interpretation" refers to the provision of oral language services.

2. Field Encounters and Walk-Ins

According to Directive 1.15, when personnel in the field encounter an LEP individual, they should first attempt to identify the LEP person's primary language by using the Language Access Card. The VCSO provided the OCR with a copy of the Language Access Card, which contains the phrase "[w]ould you please indicate which language you speak and we will endeavor to obtain an interpreter to help us" in eighteen different languages. The Language Access Card is attached to Directive 1.15, and is available on the VCSO's intranet and in each VCSO facility. Directive 1.15 instructs personnel to advise the Communications Center of the need for an interpreter, and that the Communications Center should first attempt to use any available in-house assets or on-call personnel; if there are no interpreters available, then deputies should contact a supervisor for approval to use a contracted interpreter. According to Directive 1.15, supervisors are given liberal authority to approve the use of contract interpreters, and upon supervisory approval, deputies should contact the Communications Center again to be connected to Language Line or another qualified interpreter. Directive 1.15 further advises personnel that in other than exigent circumstances, personnel should only use family, friends, or bystanders for interpreting in very informal, non-confrontational contexts, and only to obtain basic information at the request of the LEP individual.

During the OCR's onsite interviews, the deputies with whom the OCR spoke said that if they encounter an LEP person in the field, they obtain language assistance from a bilingual VCSO deputy, a bilingual officer from a nearby city law enforcement agency, Language Line, or a friend or family member of the LEP individual. The deputies told the OCR that if they are aware of a particular VCSO deputy who speaks the needed language, they contact that deputy directly either over the radio or on the telephone; otherwise, the deputies utilize the radio to request assistance from any deputy who speaks the needed language or to request that the Communications Center locate an appropriate bilingual deputy. During the OCR's interviews with the Communications Center employees, they told the OCR that the CAD system contains information on whether a deputy has a language skill and that the Communications Center employees can type in a language and determine which deputies speak the needed language; however, VCSO command staff told the OCR that this information is not current or reliable. The deputies also indicated to the OCR that several city law enforcement agencies share the same radio frequency as the VCSO, and that bilingual city employees may hear the request for an interpreter and respond as needed. Only one deputy with whom the OCR spoke reported using Language Line to communicate with LEP individuals in the field. The deputies told the OCR that when they do encounter an LEP individual, the responding deputy will note in the incident report that the individual is LEP and what type of language assistance was provided, or a bilingual deputy serving as an interpreter may complete a supplemental report.

Regarding the use of family members, friends, or bystanders to interpret, the VCSO command staff told the OCR that employees may rely upon such individuals to obtain general information regarding the nature of a situation. Many of the deputies whom the OCR interviewed confirmed

using family members, including children, or friends or bystanders to interpret in minor situations. The deputies identified several situations where they would not use a friend, family member, or bystander to interpret, including situations involving sexual assault or domestic violence, or if the friend, family member, or bystander was involved in the matter. According to the deputies and civilian employees interviewed by the OCR, if an LEP individual walks into the administration building or a district office or calls a VCSO facility for assistance, the VCSO will communicate by locating a bilingual deputy at the facility, contacting Language Line, or relying upon a friend or family member of the LEP individual.

3. Interviews and Interrogations

According to Directive 1.15, personnel should use a qualified interpreter for any interrogation or taking of formal statement where the suspect or witness' legal rights could be adversely impacted, as miscommunication during such scenarios may have a substantial impact on the integrity of the investigation and any evidence presented to a court. During the OCR's onsite visit, command staff from the VCSO's Investigative Services Division (ISD) said that the ISD uses Spanish-speaking detectives or civilian employees from the ISD to communicate with Spanish-speaking LEP suspects, victims, or witnesses, and that the ISD contacts the Communications Center to utilize the services of Language Line for other foreign languages. The command staff estimated that at the time of the OCR's onsite visit, the ISD had approximately ninety-five employees, and approximately five of these employees spoke Spanish. The VCSO has not assessed the language skills of these employees. The command staff further stated that the ISD has also used a Spanish-speaking patrol deputy to provide interpretation, and that detectives with the ISD's Narcotics Unit have utilized bilingual officers from other law enforcement agencies who participate on a narcotics task force with the VCSO. According to the command staff, detectives would not use a friend, family member, or other third-party to provide interpretation during a formal interview or interrogation, but may utilize such individuals to determine the language being spoken.

According to the ISD command staff, the ISD has several forms and other written materials available in Spanish, such as an adult and juvenile advisement of rights, a DNA consent form, several consent to search forms, and a victim/witness information pamphlet. As will be discussed in Section II.7.b of this Compliance Review Report, all of these translated documents are available on the VCSO's intranet.

4. Arrests and Detention

According to the patrol deputies with whom the OCR spoke, when arresting an LEP individual, VCSO deputies obtain language assistance services from a bilingual VCSO employee or from Language Line. All booking and detention services are provided by the Volusia County Division of Corrections.

5. Complaints

The VCSO provided the OCR with VCSO Directive 52.1, *Complaint Procedures*, which sets forth the guidelines for processing complaints against the VCSO; this directive does not address the processing of complaints from LEP individuals. The VCSO's written LEP directive, Directive 1.15, contains a brief section regarding complaint procedures for LEP persons, indicating that "[a]ny LEP individual who wishes to file a complaint with the Sheriff's Office regarding language access, or the discharge of law enforcement duties, shall be provided with the secondary language complaint forms."

Based on Directive 52.1 and the information gathered during the OCR's onsite visit, the OCR understands that members of the public can complain of alleged police misconduct in person, over the telephone, in writing, or over the internet, and can submit a complaint to any VCSO employee, who will then notify a supervisor. The VCSO has a brochure entitled *Citizen's Complaint Procedures* along with a complaint form for complainant's to complete; both of these documents are available in English and in Spanish, and individuals can obtain the brochure and complaint form at VCSO district offices, at the VCSO's administration building, and on the VCSO's website. The *Citizen's Complaint Procedures* and the complaint form both contain a statement indicating that whoever knowingly makes a false statement in writing shall be guilty of a misdemeanor of the second degree pursuant to Florida State Statute and may be subject to civil damages.⁴

Once a complainant completes a complaint form, all complaint forms are forwarded to the VCSO's Internal Affairs Unit (IAU). Depending on the nature of the complaint, complaints are investigated by either the employee's supervisor or the IAU. During the OCR's onsite visit, IAU command staff said that the IAU investigates more serious allegations such as allegations of a criminal offense, multiple offenses, excessive force, or gross misconduct, and that an employee's supervisor would investigate minor complaints such as allegations of rudeness. The IAU command staff said that allegations of discrimination would initially be investigated by a supervisor. The IAU receives reports of all supervisory investigations and is responsible for maintaining a database of all complaints and all associated reports and records.

The IAU command staff only recalled receiving one complaint from an LEP individual over the past few years; this individual spoke German, and the investigating supervisor relied on a friend of the complainant to interpret. The command staff said if the VCSO receives a future complaint

⁴ Please note that the International Association of Chiefs of Police (IACP) National Law Enforcement Policy Center advises law enforcement agencies that it is not a good general practice to inform complainants of the penalties for filing a false complaint, as it creates a chilling effect on the filing of complaints and could be perceived as an attempt to intimidate potential complainants. Additionally, a law enforcement agency's failure to fully document all complaints from the public can create a perception that the agency is covering up some officer misconduct. See *Model Policy on Investigation of Employee Misconduct* and its accompanying Concepts and Issues Paper, published by the IACP National Law Enforcement Policy Center (revised October 2001).

from an LEP individual, it would use Language Line to communicate, and that the command staff is also aware of some bilingual VCSO deputies or bilingual employees from other county agencies who may be contacted to provide interpretation. At the time of the OCR's onsite visit, the IAU did not employ any bilingual investigators or clerks. The IAU sends letters to complainants acknowledging receipt of the complaint and notifying complainants of the outcome of the investigation; the command staff did not recall the IAU ever sending these letters in a language other than English.

According to the VCSO's Data Response and information provided by the IAU command staff during the OCR's onsite visit, during the period of January 1, 2009 through April 18, 2012, the VCSO did not receive any complaints from members of the public alleging ineffective communication with an LEP individual.

As the OCR discussed at the beginning of this Compliance Review Report, the OCR initiated this compliance review in response to an administrative complaint that we received from two Spanish-speaking individuals alleging that the VCSO failed to provide language assistance services during a January 2009 encounter. Specifically, the complainants alleged the following:

On January 2, 2009, [REDACTED], a Spanish-speaking LEP resident of Volusia County, called 911 to report that her mother was punching her. The 911 call taker told [REDACTED] that there were no Spanish-speaking call takers to handle her call, and the call taker did not attempt to utilize a telephonic interpreter to communicate with her. Three VCSO deputies, along with personnel from the Volusia County Fire Services and the Volusia County Emergency Medical Services (EMS), arrived at the home of [REDACTED] and her husband, [REDACTED], who is also a Spanish-speaking LEP individual. The VCSO deputies immediately became aggressive with [REDACTED], and one of the deputies grabbed [REDACTED] arm and bent it behind his back, dragged him outside the house, and threw him against the wall. [REDACTED] repeatedly requested an interpreter so that he could explain that [REDACTED] mother was the individual who harmed [REDACTED], and not [REDACTED], but the deputies denied his requests. [REDACTED] also attempted to explain that he and his wife have medical conditions, but the deputies did not respond. [REDACTED] subsequently filed a written complaint with the VCSO regarding this incident, but never received a response from the VCSO.

During the OCR's onsite visit, the OCR spoke with the 911 call taker who received [REDACTED] call and two of the three deputies who responded to the scene.⁵ The call taker stated that she cannot recall whether [REDACTED] was speaking English or Spanish, but that she was able to get enough information to determine that she needed to quickly dispatch deputies and EMS personnel to the scene. She told the OCR that she has used Language Line in the past to communicate with LEP callers, but that in her opinion, it was not necessary in this instance as by the time she connected Language Line to the call the deputies may have already arrived on the scene. The call taker noted that there are now two Spanish-speaking call takers working the night shift and one Spanish-speaking call taker working the day shift within the Communications Center.

In regard to what occurred at the scene, the two deputies both told the OCR that [REDACTED] was speaking to them in both Spanish and English and that it was clear that there had been a disturbance with [REDACTED] mother and that [REDACTED] wanted her removed from the house. The OCR understands that neither of the deputies speaks Spanish. The deputies said that they did not believe that an interpreter was needed because they were able to determine what had occurred, and that they tried to explain to [REDACTED] that the situation did not meet the criteria for involuntarily removing [REDACTED] mother from the home. Both deputies said that [REDACTED] began to complain of chest pains, and when EMS personnel arrived on the scene and tried to examine her [REDACTED] began to interfere with the EMS personnel and the EMS personnel requested that the deputies take action. One of the deputies said that he then grabbed [REDACTED] by the arm and escorted him outside. Both of the deputies told the OCR that [REDACTED] was cursing at them in English during the encounter and told them in English that he knows the Sheriff and would ensure that the deputies were fired. In its Data Response, the VCSO provided the OCR with the incident reports completed by the two deputies which are consistent with what the deputies told the OCR; neither deputy noted in the report that the complainants were LEP or were speaking Spanish, or that the deputies had difficulty communicating with them.

As for [REDACTED] allegation that he filed a written complaint with the VCSO but never received a response, IAU command staff told the OCR that the IAU does not have any record of [REDACTED] filing a written complaint. In its Data Response, the VCSO provided the OCR with a CAD report that indicates that [REDACTED] called the VCSO on the afternoon of January 2, and that a call taker used Language Line to speak to [REDACTED] and noted in the CAD system that [REDACTED] is complaining that a deputy shoved him and is requesting to speak to a supervisor. During the OCR's onsite visit, the VCSO's legal advisor told the OCR that a sergeant closed this incident in the CAD system and that it is not clear whether the supervisor spoke to [REDACTED]. This supervisor was no longer employed by the VCSO at the time of the OCR's onsite visit.

Based on the testimony provided by both the complainants and the VCSO, it appears that the VCSO call taker and responding deputies did not attempt to obtain an interpreter because they

⁵ During the OCR's interviews with one of the deputies, he indicated that the third deputy who responded to the scene was in training and did not take any action at the scene.

believed they could adequately determine the nature of the situation. However, it appears that the complainants may not have understood all of the information that the call taker or the deputies were conveying. In the future, in situations where an individual interacting with the VCSO has limited English skills, and particularly where an individual is requesting an interpreter, the VCSO should make every attempt to obtain the services of an interpreter to ensure that there is effective communication between the VCSO and the LEP individual. This should occur whether the individual calls the Communications Center or is interacting with deputies in the field or at a VCSO facility. It is important to note that in order to ensure effective communication, the LEP individual must be able to understand the information that the VCSO is conveying; it is not enough that the VCSO believes that it can understand the essence of what the LEP individual is conveying. In the instant situation, it appears that the complainants' inability to fully understand the information that the deputies were conveying may have caused the incident to escalate and resulted in a perception of misconduct by the VCSO. The VCSO should take action to ensure that this does not occur in the future.

6. Community Outreach

According to the VCSO command staff, the VCSO reaches out to LEP populations by having Spanish-speaking deputies conduct safety presentations in Spanish and participate in other community activities. Several years ago, the VCSO was involved in a program entitled "Buckle Up Florida" that provided Hispanic parents with information regarding safety belt usage; a Spanish-speaking deputy translated materials into Spanish and conducted presentations on Spanish for community members. The VCSO was also previously involved in Volusia County's Safe Kids Coalition program, which provided information to community members on issues such as child safety, fire safety, and bike safety, along with the Healthy Start and Healthy Families program, which provided information on healthy living to community members; a Spanish-speaking VCSO deputy translated materials associated with these programs into Spanish and provided presentations in Spanish. A Spanish-speaking deputy also tutors Hispanic youth through the VCSO's Police Athletic League and a Spanish-speaking deputy participates in the annual health and safety fair held within the Hispanic community by disseminating translated materials. The VCSO command staff told the OCR that the VCSO provides all of its public safety announcements to a local cable company and that this company relays the information in Spanish. The command staff further said that the VCSO was working with a Spanish language radio station to develop information on when to contact 911, but that the radio station did not follow through.

7. General Language Services

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

a. Oral Language Services

The VCSO command staff, deputies, and civilian employees with whom the OCR spoke identified four primary ways in which the VCSO provides oral language assistance to LEP individuals: (1) Language Line; (2) bilingual VCSO employees; (3) bilingual employees from nearby city law enforcement agencies; and (4) friends or family members of LEP individuals or third-party bystanders.

As previously noted in this Compliance Review Report, the VCSO uses the telephonic interpreter Language Line to respond to telephone calls from LEP persons, and deputies and civilian employees may also use this service during face-to-face or telephonic encounters. One deputy with whom the OCR spoke reported using Language Line to provide telephonic interpretation in Haitian Creole, one civilian front desk employee reported using Language Line on several occasions, and ISD command staff said that detectives use Language Line to interview or interrogate individuals who speak languages other than Spanish.

For non-telephonic encounters with LEP persons, VCSO deputies and civilian employees generally obtain language assistance services from a bilingual employee with the appropriate language skills, either by calling the bilingual employee directly or broadcasting a request over the radio. The VCSO does not assess the language skills of bilingual employees. All of the bilingual employees with whom the OCR spoke stated that they indicated on their initial application that they had foreign language skills, and VCSO command staff told the OCR that employees complete a skills bank questionnaire on an annual basis where they can indicate if they have any language skills. According to VCSO command staff, the self-identified bilingual employees are typically native speakers. The VCSO does not maintain a list of bilingual employees; as discussed previously in this Compliance Review Report, the CAD system contains information on which officers have a foreign language skill. However, VCSO command staff told the OCR that this information is not current or reliable.

The VCSO said in its Data Response that language skills are considered an asset, but are not a deciding factor when hiring employees. Employees with language skills do not receive any additional compensation or benefits. The commanding officer of District II told the OCR that he tries to schedule bilingual deputies on different shifts for coverage. The bilingual deputies with whom the OCR spoke stated that in addition to providing language assistance services for the VCSO they provide interpretation for nearby law enforcement agencies, such as city police departments and the Florida Highway Patrol.

According to the command staff and deputies with whom the OCR spoke, employees also use bilingual employees from other city departments to provide interpretation. As discussed previously in this Compliance Review Report, several other city departments share the same radio frequency as the VCSO, and bilingual employees from these departments will hear a request for an interpreter and respond as needed.

Regarding the use of family members, friends, and bystanders to interpret, as explained in Section I.C.2 of this Compliance Review Report, the VCSO employees reported using these individuals to interpret in minor situations, such as to obtain preliminary information or during a non-criminal manner. The employees identified several situations where they would not use a friend, family member, or bystander to interpret, such as if the situation involved sexual assault or domestic violence, or if the friend, family member, or bystander was involved in the matter.

Based on the OCR's interviews with command staff and employees, the OCR understands that the VCSO instructs employees on the procedures for providing language assistance services during initial field training and during periodic roll-call training, as well as during an annual training for all deputies which includes a segment on cultural diversity and interacting with LEP individuals. The VCSO also recently disseminated Directive 1.15 to all employees. Two of the deputies with whom the OCR spoke reported attending a Spanish for law enforcement course, and one deputy recommended that the VCSO offer Spanish classes for all deputies.

b. Written Language Services

In its Data Response, the VCSO indicated that it determines which written materials are made available in languages other than English based on need and usage. The VCSO's Data Response included copies of the following documents that have been translated into Spanish: a crime victim information pamphlet; a pamphlet on crime prevention; adult and juvenile waiver of rights forms; a consent to search premises/vehicle form; pamphlets from the Volusia County Circuit Court containing information on traffic tickets, filing an order of protection, evictions, dissolutions of marriage, marriage licenses, passports, the Volunteers Assisting & Lending Useful Experience program, and employment opportunities; a crime stoppers advisory regarding counterfeit checks; information on the options for resolving traffic tickets; a booklet on the neighborhood watch program; a community needs assessment survey; pamphlets on domestic violence and sexual assault; and the VCSO's *Citizen's Complaint Procedures* and associated complaint form. During the OCR's onsite visit, VCSO command staff said that these materials are available at DCSO district offices and the VCSO's administration building. Additionally, during the OCR's onsite visit, VCSO command staff provided the OCR with the list of Secondary Language Information and Workplace Employment Forms that is located on the VCSO's intranet and which contains a link to listed documents. In addition to several of the documents that were provided with the VCSO's Data Response, this list contains a link to the following documents that have been translated into Spanish: an eviction brochure; a DNA consent form; a consent to search-computer form; a consent to search-structure form; a Department of Revenue Unemployment Tax form; an equal employment opportunity is the law poster; a Florida minimum wage poster; a Family Medical Leave Act form; and a minimum wage poster.

The OCR understands that a Spanish-speaking VCSO employee translated the VCSO materials into Spanish, and that some of the materials were produced by other agencies and provided to the

VCSO for distribution. During the OCR's onsite visit to the VCSO administration building and the District II and District IV stations, the OCR observed various materials translated into Spanish. Specifically, at the front desk of the administration building, the OCR observed the *Citizen's Complaint Procedures* and the complaint form along with an information request form. At the District II station, the OCR observed numerous pamphlets in the lobby including pamphlets on victim/witness information, general eviction information, legal rights and remedies, sexual battery, divorce, the Landlord Tenant Act, child support enforcement, and an injunction for protection against dating violence. The OCR did not observe any translated materials in the lobby of the District IV station; however, the front desk clerk told the OCR that translated documents relating to victim rights and remedies and landlord tenant rights along with other translated forms are located behind the front desk. At all three facilities, the OCR observed a poster in Spanish on the Attorney General's crime victims compensation program. None of the VCSO's facilities contain any signage notifying the public that free language assistance services are available.

The VCSO's website, <http://volusiasheriff.org>, contains a button entitled "translate;" however, when the OCR clicked on the button, the OCR received a message indicating that the page we requested was not found. There is also a button entitled "Espanol;" when the OCR clicked on this button we were able to view in Spanish a message from the Sheriff, a listing of some VCSO programs, and the *Citizen's Complaint Procedures* and complaint form.

Recommendations for the VCSO

The VCSO is currently taking steps to communicate with Volusia County's Spanish-speaking population, such as by employing some Spanish-speaking deputies and civilian employees and translating various forms and documents into Spanish. However, the VCSO should build on these steps to provide even more effective language assistance to LEP individuals. The OCR commends the VCSO for drafting a written language assistance policy, Directive 1.15, immediately prior to the OCR's onsite visit. The VCSO should carefully review Directive 1.15 and make any necessary changes to ensure that it incorporates any revisions in policy and procedures that the VCSO implements as a result of the recommendations contained in this Compliance Review Report. Additionally, the OCR has some preliminary questions and comments regarding Directive 1.15 which we will discuss with the VCSO in follow up to this Compliance Review Report.

To ensure the accuracy of interpretation and translation services provided by bilingual employees, the VCSO should implement an objective testing process for assessing the language skills of all of its 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 skills to provide competent interpretation in that language,

and therefore it is essential for law enforcement agencies to ensure that the bilingual employees providing language assistance are competent in the specific skill of interpretation. Similarly, if the VCSO continues to rely upon bilingual employees to translate written materials, the VCSO should test its bilingual employees' written translation skills, which involves rendering written communication in one language into the writing of another language. An objective testing process does not need to involve a formal certification process. For example, the VCSO could test employees' interpretation skills through oral review panels comprised of deputies, language professors from local colleges or universities, and community group members who are competent to interpret, and could assess written translation skills through written tests developed by these individuals.

After ensuring that employees are qualified to provide interpretation or translation, the VCSO should develop a list of all bilingual employees who are qualified interpreters or translators. This list should include the contact information for each employee, what language the employee speaks, and whether the employee has the ability to interpret and/or translate. The VCSO should ensure that this list is constantly updated and accessible to VCSO employees. Additionally, the VCSO may wish to obtain and distribute to employees a list of qualified bilingual employees from nearby city law enforcement agencies.

To increase the number of bilingual deputies who are available to provide language assistance services for VCSO, the VCSO should take steps to specifically recruit bilingual deputies, particularly those who speak Spanish. The VCSO may wish to consider providing additional compensation to deputies who demonstrate proficiency in a foreign language, as well as paying for deputies to attend foreign language classes in languages that the VCSO frequently encounters.

In regard to written materials, while the VCSO 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.

In accordance with the DOJ Guidance, the VCSO 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 recent data from the U.S. Census

Bureau, it appears that the Spanish-speaking LEP population of Volusia County clearly meets the 1,000 person safe harbor threshold. The VCSO should review the latest Census data on an annual basis to determine whether other language groups meet the safe harbor threshold. The VCSO should take steps to translate all of its vital documents into the languages that meet this threshold, such as any documents relating to a citizen's rights or the provision of consent.

As discussed above, if the VCSO continues to rely upon bilingual employees to translate written materials, it should conduct an assessment of these employees' written translation skills. The VCSO 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 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 VCSO 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. The VCSO should also post signs in the primary languages of its largest LEP populations in the lobbies of its district stations and administration building stating that on request, free language assistance services are available. Additionally, the VCSO should ensure that important information regarding VCSO services available in English on the VCSO's website is also available in Spanish.

Once the VCSO revises Directive 1.15 in accordance with the OCR's recommendations, it should immediately train all employees on the Directive to ensure that all employees are aware of the proper procedures for providing language assistance services. Following this initial training, the VCSO should continue to train employees on annual basis on providing language assistance services to LEP individuals. As part of its training program, the VCSO may wish to show the enclosed training DVD *Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice*. Other law enforcement agencies have found this DVD particularly helpful in training employees on how to provide services effectively to LEP populations. Additionally, please also find enclosed a CD-ROM, entitled *Espanol for Law Enforcement*, which is an interactive training tool that covers basic Spanish phrases and sentences relative to law enforcement. This CD-ROM may be duplicated; alternatively, additional copies may be requested from the Department of Justice by contacting the National Institute of Justice at (800) 851-3420 or by visiting the following website: <http://www.ojp.usdoj.gov/nij/pubs-sum/201801.htm>.

Regarding community outreach, the VCSO should continue to ensure that Spanish-speaking deputies take part in community activities and should actively seek out opportunities to collaborate with organizations serving LEP populations and to make presentations to LEP populations. To ensure that its outreach efforts are effective, the VCSO should establish a mechanism for gathering community feedback on its provision of services to LEP individuals. For example, the VCSO may want to develop a written survey of community groups serving LEP

populations, or to convene a focus group of LEP individuals. The VCSO may also consider holding separate meetings with each LEP community, perhaps in collaboration with community, business, and religious leaders representing the LEP population, so that the VCSO can hear the LEP community's unique needs regarding outreach. The VCSO should work with ethnic media outlets to relay public safety information to the public, and should use these outlets to publicize community meetings and to inform LEP persons of the availability of free language assistance services and other important resources.

D. Available Resources

The VCSO's fiscal year is from October 1 to September 30. According to the VCSO's Data Response, the VCSO budgeted a total of \$73,396,579.00 for operational expenses in fiscal year 2009, budgeted \$73,067,860.00 in fiscal year 2010, and budgeted \$69,932,126.00 in fiscal year 2011. During the period of January to December, 2009, the VCSO spent \$3,558.60 on Language Line interpretation services. The VCSO spent \$2,452.13 on Language Line and OPI services during the period of January to December, 2010, and spent \$642.79 on Language Line and OPI services during the period of January to May, 2011.

Recommendation

The VCSO 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 VCSO can provide more effective language assistance services, as discussed above. The VCSO 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 in a variety of foreign languages. To this end, the VCSO should consider providing incentive pay or bonuses for VCSO employees who interpret or translate along with paying for deputies to attend foreign language classes in the most frequently-encountered languages. The VCSO should utilize local community groups serving LEP populations to identify all of the community resources that are available to provide cost-effective and reliable language assistance services to the County'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.

John C. MacConnell, Deputy County Attorney
April 11, 2013
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Recommendation

The VCSO should review Directive 1.15 and make any necessary revisions to ensure that it includes the five elements referenced above and addresses the concerns raised in this Compliance Review Report. In doing so, the VCSO 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) sample written language assistance plans developed by other law enforcement agencies and approved by the DOJ. These documents are available online at <http://www.lep.gov>, and should assist the VCSO in making any necessary revisions to its existing LEP plan.

Conclusion

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

Thank you for your cooperation and the cooperation of the VCSO 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

Enclosures