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## **SAMPLE FOR DISCUSSION PURPOSES**

### **PLANNING TOOL:**

## **CONSIDERATIONS FOR CREATION OF A LANGUAGE ASSISTANCE POLICY AND IMPLEMENTATION PLAN FOR ADDRESSING LIMITED ENGLISH PROFICIENCY IN A LAW ENFORCEMENT AGENCY**

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### **I. INTRODUCTION AND BACKGROUND**

#### **A. POLICY STATEMENT**

Police and Sheriffs' Departments (Departments) may want to consider creating a short policy statement that sets the tone and goal on language access in the agency. An example of what such a statement could potentially include is the following:

*It is the policy of the \_\_\_\_\_ Department (Department) to take reasonable steps to provide meaningful access to all individuals in any encounters with the Department regardless of their national origin or limited ability to speak, read, write, or understand English. A language assistance implementation plan and subsequent directives/general orders [as appropriate for your agency] will detail the steps to be taken in implementing this Policy.*

#### **B. WHO IS LIMITED ENGLISH PROFICIENT (LEP)?**

LEP individuals do not speak English as their primary language and have a limited ability to read, write, speak, or understand English.

- Many LEP persons are in the process of learning English and may read, write, speak, and/or understand some English, but not proficiently.
- LEP status may be context-specific – an individual may have sufficient English language skills to communicate basic information (name, address etc.) but may not have sufficient skills to communicate detailed information (e.g., medical information, eyewitness accounts, information elicited in an interrogation, etc.) in English.

#### **C. BACKGROUND AND PURPOSE**

- Federal law prohibits national origin discrimination and requires federally assisted law enforcement agencies to take reasonable steps to provide meaningful access to LEP individuals.
- Language barriers can put cases and lives at risk by impeding communications with LEP victims, witnesses, suspects, and community members and by creating safety, evidentiary, and ethical challenges for officers and others
- Language barriers can prevent LEP individuals from understanding their rights, complying with the law, and receiving meaningful access to law enforcement services and information.

## D. PLANNING DOCUMENTS

Law enforcement officials have several planning documents they could choose to create.

- A general Policy could include the brief policy statement, as well as background information and as many specifics as appropriate for the agency. This policy statement could be the overarching document from which a management plan would flow.
- An Implementation Plan for managers could identify operational and management strategies and planning options for implementing the Policy. The Plan could be attached to the Policy once developed.
- Shorter directives [substitute policy guidance, general orders, or other types of direct communication with staff and managers regarding protocols and procedures, as appropriate for your Department] could be created to flow from the Plan. These directives could set forth clear expectations and procedures for staff and managers on how and when to access language service options. Where appropriate, different directives might be issued to cover different types of encounters, such as traffic stops, arrests, custodial interrogations, witness interviews, detention, etc.
- Language resource lists, signs, instructions on internal websites, training, videos, and other tips and tools could be created to help staff understand how and when to access and provide language assistance.

## E. FRAMEWORK FOR ASSESSING LANGUAGE SERVICE NEEDS

The starting point for the Department's Language Assistance Implementation Plan is the four-factor analysis and Guidance Document that the U.S. Department of Justice developed to assist law enforcement agencies in creating language access plans.

(<http://www.usdoj.gov/crt/cor/lep/DOJFinLEPFRJun182002.pdf>) The Guidance also provides examples of application of that analysis in law enforcement, particularly in Section A of the Appendix. More details on the document and analysis, as well as specific law enforcement examples, can be found at <http://www.lep.gov>.

### *Four-factor analysis:*

1. The number or proportion of LEP persons encountered in the Department's jurisdiction/precinct etc., including any seasonal, tourism, or other variations in the LEP population;
2. The frequency of contact with LEP individuals;
3. The nature and importance of the various types of encounters the Department has with LEP persons; and
4. The resources available to the Department and the costs associated with providing language services.

While all law enforcement activities are important, the four-factor analysis allows the Department to prioritize types of language services, and to ensure that appropriate language assistance resources are promptly available where most needed.

## F. APPLICATION OF THE FOUR FACTORS

- The Policy and/or Plan could describe the demographic background or major language groups encountered, including composition within each district or precinct, and any seasonal variations, and/or trends.
- The Policy could identify language service options and Departmental priorities for the provision of language services, based on the four-factor analysis. The Implementation Plan and Directives could provide detailed information on the protocols for accessing language services, vital documents to be translated, training, monitoring, and other specifics to implement the Policy.

## II. DEFINITIONS

- **Primary Language** – The language in which an individual is most effectively able to communicate.
- **Interpretation** – The act of listening to a communication in one language and orally converting it into another language, while retaining the same meaning. Interpreting is a sophisticated skill needing practice and training, and should not be confused with simple bilingualism. Even the most proficient bilingual individuals may require additional training and instruction prior to serving as interpreters. Qualified interpreters are generally required to have undergone rigorous and specialized training.
- **Translation** – The replacement of written text from one language into an equivalent written text in another language. Translation also requires special knowledge and skills.
- **Bilingual** – The ability to speak two languages fluently and communicate directly and accurately in both English and another language.
- **Direct Communication** – Monolingual communication in a language other than English between a qualified bilingual Department employee or representative and an LEP individual (e.g., Spanish to Spanish).

## III. CONSIDER WHETHER THE DEPARTMENT SHOULD DESIGNATE A RESPONSIBLE OFFICIAL AND PRECINCT-LEVEL COORDINATORS

If a Department decides to assign a Responsible Official/LEP Coordinator who reports to the Chief, Sheriff, or some other high-ranking official, some of the responsibilities of that position could be, for example, to:

- Identify:
  - Language assistance needs for the Department;
  - Existing Departmental language assistance resources; and

- Additional needed language assistance resources (bilingual officers, in-house interpreters, contract interpreters, resource sharing with other agencies, volunteers, or other resources).
- Oversee the proper use of:
  - Bilingual employees, including adopting and implementing standards and assessments for qualifying Department employees as bilingual, training, tracking, and dispatching qualified bilingual officers;
  - Department interpreters, including adopting and implementing standards and assessments to measure interpreter proficiency, and training, tracking, and dispatching qualified Department interpreters; and
  - Non-employee interpreters, including adopting and implementing standards for ensuring qualifications of contract and other non-employee interpreters (in-person and telephonic), and training, tracking, and utilization of such interpreters.
- Oversee translations, including identification of documents to translate, ensuring quality control, securing translation services, ensuring access to translated documents, etc.
- Develop or recommend directives/general orders/protocols (or other appropriate documents) to be followed by shift supervisors, field officers, dispatchers, and staff in situations involving LEP persons.
- Provide for employee training on accessing all language assistance measures the Department will use.
- Identify and implement a system for receiving and responding to complaints/suggestions by citizens and staff regarding improvements to language assistance measures.
- Exchange promising practices information with other law enforcement departments and other community organizations.
- Review the Department's progress in providing meaningful access to LEP persons, develop reports, recommend modifications to this Plan and implementing directives/orders, as appropriate.
- Oversee budgetary and procurement/contracting matters related to implementation of the policy.

The official responsible for language assistance services could be given the authority to delegate responsibilities, as appropriate, to various Department employees but could retain ultimate responsibility for oversight and implementation of the Plan.

Larger Departments with significant LEP populations may choose to designate precinct-level responsible officials also.

The Plan and Directives should set forth the name and contact information of the Responsible Officials, if the Department chooses to assign them.

### **III. LANGUAGE ASSISTANCE OPTIONS**

In general, Departments have the following options to consider including in their plans for the provision of language services:

#### **A. ORAL LANGUAGE SERVICES**

##### **1. Direct Communication with LEP Individuals by Bilingual Staff**

- Often, the most efficient and cost-effective method for communicating with LEP individuals is direct communication through qualified bilingual employees fluent both in English and the LEP person's language.
- Consider taking the following steps to ensure accurate communications:
  - Creating written standards and adopting assessments for qualifying Department employees as bilingual.
  - Assessing fluency in both languages and in the terminology used by the Department prior to designating a staff member as bilingual. A person may be able to convey simple instructions or hold conversations in an LEP individual's primary language, but not be sufficiently proficient in that language to perform more complicated tasks such as conducting interrogations, taking statements, collecting evidence, or conveying rights or responsibilities. These individuals are not yet "bilingual."
  - Providing initial and periodic training to bilingual employees on their role in direct bilingual communication, code of conduct for bilingual communications, and law enforcement terminology in other languages.
- Consider taking the following steps to improve effective utilization of bilingual officers:
  - Maintaining a directory of all qualified bilingual employees, including a list of the non-English language(s) they speak and their contact information, assignments, shifts, etc.
  - Recruiting bilingual staff and considering pay differentials or other forms of recognition for employees who do "double duty" as qualified bilingual employees.
  - Considering bilingual capabilities and language assistance needs of the community (or, in the case of a call for assistance, the specific language needed) in assignments and dispatch.

## 2. Interpretation

When language services are needed, the Department should use qualified interpretation services when a non-bilingual employee/officer needs to communicate with an LEP person or *vice versa*, when qualified bilingual employees are unavailable or *en route*, and when available bilingual employees lack the skills, rank, or assignment to provide direct communication services.

### a. Options to consider include:

- Staff interpreters (trained and qualified) who are employed by the Department exclusively to perform interpretation services.
- Contract in-person interpreters, such as state and federal court interpreters, among others.

- Contract telephonic interpreters who provide interpretation according to Department guidelines. The language assistance implementation plan could set forth telephonic interpretation options, and how to access them, including use of telephonic or radio equipment to:
  - Access employees, interpreters from other agencies, or others who have been qualified as interpreters by the Department.
  - Access commercial telephonic interpretation services. The Plan will set forth information on access codes and assurances of quality control for such services.
- Interpreters from other agencies with which the Department has a resource-sharing or other formal arrangement to interpret according to Departmental guidelines.
- Interpreters who also serve as bilingual sworn officers or employees and have undergone training and passed Departmental language proficiency assessments and rigorous training to serve dual roles as sworn officers/civilian employees and interpreters.
  - A bilingual person may be sufficiently proficient in English and a foreign language to have direct monolingual conversations in that foreign language with an LEP individual, but not sufficiently proficient to convert orally what is said in the foreign language back into English. Likewise, the person may be perfectly fluent in both languages, but unskilled in interpreting and untrained in the various modes of interpretation and appropriate use of those modes (simultaneous, consecutive, sight).
  - Consider creating written standards for assessing and qualifying bilingual Department employees as interpreters, and provide or secure training for qualified employees on the role of a Department interpreter, the modes of interpretation, the code of conduct for interpretation, and the use of law enforcement terminology in other languages.
  - Bilingual officers used for the dual purpose of interpreting should inform the LEP person that they are also officers in the Department.
- Volunteer interpreters who have undergone training and meet Departmental language proficiency standards, and have formal arrangements with the Department to perform interpretation services.
- Family members, neighbors, friends, acquaintances, bystanders, and children generally should not be used for interpretation, especially for communications involving witnesses, victims, and potential suspects, or in investigations, collection of evidence, negotiations, or other sensitive

situations, except temporarily in unforeseen, emergency circumstances while awaiting professional interpretation or bilingual officers.

**b. Choosing Between Telephonic and In-Person Interpretation**

- When interpretation is needed, in-person interpreters may be preferred (Department employees or contract) for lengthy interactions and interactions with significant potential consequences to the LEP person, such as interviews or interrogations.
- In general, when interpretation is needed, telephonic interpretation services are most appropriate for brief encounters, situations in which no qualified in-person interpreter is available, while awaiting a qualified in-person interpreter, and during telephone conversations with LEP persons.

**B. WRITTEN COMMUNICATIONS [TRANSLATIONS]**

**1. General Forms and Documents.**

Using the four-factor analysis, the Department should translate the vital written materials into languages of frequently-encountered LEP groups (considering literacy of LEP populations in their language). Vital information from those documents should be interpreted when translations are not available for LEP or when oral communication is more effective, such as in the case of LEP individuals whose primary language is traditionally an oral one.

The Plan could set forth the documents to be translated, including languages and timeframes for such translations. For instance, the Department could consider the following format and types of documents for translations of general materials:

<b>FORMS/DOCUMENTS [Identify specifically, as appropriate]</b>	<b>Languages</b>	<b>Timeframe</b>
Documents relating to motor vehicle stops, including citations, accident reports, notices of rights, warnings, and general information:		
Documents relating to accessing emergency services, calling for police assistance, etc.:		
<u>Miranda</u> warnings and consent/waiver forms:		
Documents relating to intake/detention/incarceration:		
Notices and posters containing important information on the availability of language services:		

Documents relating to criminal citations, summons, and warrants:		
Documents relating to complaints:		

Consider planning options for the following:

- **Obtaining Translations:** Procedures for obtaining the initial translations, and directives could tell staff how and when to access these translations, as well as how to request additional translations.
- **“Taglines”:** Procedures for putting information on how to access oral language services in the appropriate languages somewhere prominently in the English language form if full translations are not reasonable.
- **Quality Control:** Quality control protocol, such as assuring initial translations and second checks by qualified individuals.
- **Updating:** Steps to consider demographic changes, new information/documents, or modifications to exiting documents, leading to the need for additional translations.

**2. Specific Written Communications Between LEP Persons and the Department** (such as complaints filed in a language other than English, written instructions, warnings, orders, etc.).

- a. The Department should take reasonable steps to ensure document translation and meaningful communication.
- b. The more significant the communication to the LEP person, the greater the need to ensure competent and timely translations.
- c. When translations are not possible or reasonable, important information should be conveyed verbally in the relevant language. Taglines in the appropriate languages could inform individuals how to receive oral language assistance to understand the contents of document.

**IV. PERSONNEL/HUMAN RESOURCE PLANNING**

The Plan for management could include planning for personnel and human resource matters, such as:

- Consideration of language needs and inclusion of second language skills in recruitment, hiring, and promotion plans and criteria.
- Consideration of pay differentials for bilingual/interpreter staff.
- Tracking composition of staff by language ability.



- Promoting language sensitive deployment of bilingual staff and interpreters to match skills with needs.
- Providing training opportunities to improve existing language skills for staff.

The Plan should include name and contact information for persons responsible for implementing these measures, as appropriate.

## **V. TRAINING AND TOOLS FOR EMPLOYEES**

The Department should consider providing:

- Easily-accessed information to employees having contact with the general public on the different types of language service options and how and when to access language services.
- Training all staff and field officers coming into contact with LEP persons, as well as administrators and supervisors in charge of any aspect of the Language Assistance Policy, the Implementation Plan, and all other Department directives/general orders, and tools pertaining to the Policy or Plan.
- Including in-service training for veteran officers and academy training for new hires on the Language Assistance Policy and Implementation Plan, directives, and tools.
- Including role-playing based on actual law enforcement encounters involving language barriers, and providing opportunities to practice accessing language resources.
- Including information on categories of people who should not be used for interpretation purposes (including family members, children, neighbors, friends, alleged perpetrators, witnesses, acquaintances, and bystanders), especially in situations involving communication with witnesses, victims, or potential suspects. Advising avoidance of using these people, if at all possible, except in unforeseen, emergency situations, in order to prevent issues of confidentiality, conflicts of interest, impartiality, or risk of compromising evidence or safety.
- Training qualified bilingual employees and interpreters, contract interpreters, shared interpreter resources from other agencies, and community volunteers who may provide oral or written language assistance services for LEP persons on confidentiality and conflict of interest requirements, necessary law enforcement terminology, and other important guidelines as more specifically set forth in Section III, above.

## **VI. POLICIES ON INTERACTION WITH LEP INDIVIDUALS**

### **A. GENERAL.**

The Plan should set forth how Department employees will use the language assistance measures (bilingual officers, interpreters, translators, etc.) in handling situations involving LEP individuals. While knowledge of the entire Plan is helpful, officers and employees coming into contact with LEP persons will mostly need to know what they are supposed to do in such situations, thus making directives, training, and training tools (such as roll call videos and instructions that can be carried easily) most valuable for those employees/officers.

1. The Plan and Directives should provide officers/employees with an order of preference for using oral language assistance services, such as, for example:

- Bilingual employees are to be requested/deployed first for direct monolingual communication with LEP persons in their primary language. Bilingual employees who are used to interpret between LEP persons and others must be qualified to do so.
- Staff interpreters are to be used when bilingual employees are unavailable, lack the language capabilities, skills, or rank to be used/deployed.
- Contract interpretation services will be used where staff interpreters are unavailable or lack the language capabilities, skills, or rank to be used/deployed.
- Family members, neighbors, friends, acquaintance, bystanders, and children should not be used for interpretation, especially for communications involving witnesses, victims, and potential suspects, or in investigations, collection of evidence, negotiations, or other sensitive situations, except temporarily in unforeseen, emergency circumstances while awaiting professional interpretation or bilingual officers.

However, the type of language assistance to be used may vary depending on the situation. The Plan should reflect the need to ensure availability of the highest quality language assistance in situations that may result in significant consequences for the LEP person or have potential safety or evidentiary consequences.

## 2. Identifying and Preparing for Language Needs:

The Plan could include information on responsibility for ensuring that:

- All employees receive language identification cards and are trained in using these cards to identify the primary language of LEP individuals.
- Information is disseminated on common languages encountered and for training employees regarding language needs of the community served, as well as literacy rates and/or issues regarding non-written languages.
- All employees know what to do if the LEP person's language cannot be identified using the cards (such as seeking the assistance of telephonic or other services).
- Officers understand that they should communicate through interpreters using the first person (i.e., "please tell me your name, address . . ." rather than, "please ask him his name, address . . ."), and that it is their job, not the interpreter's, to develop and ask any questions.
- The dispatch unit/supervisor maintains a current list of all bilingual employees and staff interpreters, etc., which includes their availability, shift, and/or other contact information.

Consider setting forth reasonable procedures for ensuring language assistance in general, and specifically in the following areas:

**A. 9-1-1 Communications with LEP Individuals** – 9-1-1 communications should be conducted in the language of the LEP caller. Officers dispatched to the scene should be made aware of language assistance needs and be prepared to respond appropriately. Wherever practicable, bilingual officers speaking the needed language should be dispatched.

Consider setting forth in the plan, as appropriate, responsibility for ensuring that the following are adopted:

- 9-1-1 call-takers receiving calls from LEP callers inform the LEP caller that he or she will be placed “on hold” pending connection to an interpretation service.
- Call-takers learn to say “please hold” in the most commonly used non-English languages within the jurisdiction.
- Call-takers utilize a list of all bilingual employees available for immediate transfer of the call.
- When bilingual staff are not available, call-takers access a telephonic interpretation service (include access information in the Plan).
- Once the three-way call is established between the 9-1-1 dispatcher, the LEP caller, and the interpreter, the call-taker utilizes standard protocol for 9-1-1 calls.
- Call-takers/dispatchers include the relevant language information and request that available bilingual officers respond when disseminating information to responding officers.
- Whenever call-takers/dispatchers must transfer a call to the fire department or EMT response, the interpreter stays on the call until the call is completed.
- There is monitoring of quality control, including accuracy and timeliness.

**B. Arrests, Enforcement Stops, and Field Investigations** – Effective planning and deployment of bilingual officers and utilization of interpretation and other language services can help ensure that officers conduct important communication with LEP persons in the appropriate language during field enforcements and investigations, including: Terry stops; arrests; Miranda and other warnings; serving warrants and restraining orders; motor vehicle stops; accident investigations; pedestrian stops; and witness, suspect, or victim interviews.

Consider including the following in the Department’s Plan and any appropriate Directives to ensure that:

- Officers have instructions on how to access language services, including bilingual staff, interpretation, and telephonic interpretation services, directly in the performance of official field duties.
- The Department provides training to all officers specifically for field enforcement and investigations involving LEP individuals.
- Patrol officers have access to relevant translated forms, warnings, and instructions related to field investigations and motor vehicle stops. Officers carry Miranda warning and waiver cards translated into frequently encountered languages to assist in ensuring consistent communication of such warnings. Some languages are traditionally oral and not written. Some LEP individuals are not literate in their primary language. Appropriate oral interpretation of rights should be provided whenever necessary.
- Officers investigating accidents obtain relevant information regardless of language barriers. LEP persons involved in accidents should be provided an opportunity to communicate “their side of the story.”

**C. Custodial Interrogations** – Advising of rights and all other communications with the LEP suspect/witness should be explained to the LEP individual in his/her primary language. Miscommunication during custodial interrogations may have a substantial negative impact on the evidence presented in any related criminal prosecution, may result in improper consequences to the

LEP person, and may result in a failure to pursue all appropriate leads. The need for quality and accuracy is at its most critical during interrogations.

Consider planning for the following:

- Advising of rights and all other communications with the LEP suspect/witness should be conducted in the LEP individuals' primary language.
- All other requisite forms and waivers should be translated and/or explained to the LEP suspect or witness in his/her primary language.
- Because of the dual role an officer would have when conducting an interrogation or witness interview and simultaneously acting as an interpreter, the officer and other Department employees should only be used as interpreters during interrogations or witness interviews if they have identified themselves as officers or employees of the Department and are trained in utilizing proper interpretation protocols. Some jurisdictions do not allow officers to serve as interpreters during custodial interrogations of suspects.
- Setting forth, as some Departments do, circumstances under which interpreters who are not serving a dual role as an investigating officer should be used.

**D. Intake and Detention** – Intake should be conducted in appropriate languages so that detainees understand their rights and responsibilities and can communicate health, mental health, safety, and other important information and needs. [If the law enforcement agency operates a jail, the planning tool for corrections/jails should also be considered].

Consider planning for the following:

- Using language identification cards to determine the LEP person's primary language. If this is unsuccessful, using telephonic or other interpretation services to identify the language.
- Once the language is identified, using bilingual employees, employee interpreters, or contract interpreters (in-person or telephonic) in intake and detention of LEP individuals.
- Providing notices to LEP persons, in the appropriate language, of language services available including the use of interpretation services and, if appropriate, translated materials.
- Communicating institution/detention rules and regulations to LEP individuals in their primary language.
- Making programs or services (including health and mental health) available to non-LEP persons also available to LEP persons.

**F. Complaints** – Consider including in the Plan processes to ensure that LEP persons are able to make complaints in their language and language barriers do not impede proper investigation of such complaints.

**G. Outreach** – Outreach efforts can build bridges between law enforcement and immigrant and LEP communities and can ensure better understanding of rights and responsibilities, as well as safety and preparedness. Thus, consider outreach efforts to be conducted in languages most frequently encountered in the population served.

## VII. LANGUAGE ASSISTANCE DOCUMENTS

Consider making updated copies of the Language Assistance Policy, the Language Assistance Implementation Plan, directives/general orders (or the equivalent), training opportunities, and other language assistance information and tools available in a central location and distributed or otherwise made easily accessible.

## VIII. SIGNS IN VISITOR AND STAFF AREAS

Consider posting signs in visitor areas that detail important information in languages most frequently encountered and in staff areas on how staff can access language services.

Consider whether notices of language services available free of charge to LEP persons will be prominently posted, in the appropriate languages, at Department entrances, lobbies, websites, or other locations where LEP individuals are likely to see them.

## VII. RECORDING AND MONITORING

Consider the following:

- Maintaining records of language assistance needs, such as:
  - Officers - Calls for services involving LEP individuals that require an incident report could include in the report a notation that the person(s) involved are LEP, the language service used (including identification of service provider/staff member), and the language(s) spoken by the individual(s);
  - Front Desk Personnel could track encounters with LEP individuals and record the date and time of the encounter, the service provided, and the language spoken by the LEP individual;
  - 9-1-1 Communications Center could track calls made by LEP individuals and record the date and time of the call and the language spoken by the LEP caller;
  - Referrals to District Attorney's Office or other Agencies – Personnel generating reports regarding LEP victims, witnesses, and suspects could note the individual's LEP status and language spoken so that language services can be identified by these other entities.
- Setting forth clear expectations for staff and managers regarding language assistance.
- Implementing a system to monitor effectiveness of the Plan and its implementation.
- Seeking feedback on the quality and effectiveness of the language service resources available and utilized by staff/officers.
- Reviewing programs, the linguistic demographics of the population served or encountered, and the language resources available in an ongoing fashion, and more formally at least once per year (or as appropriate), and make adjustments as necessary and appropriate to ensure meaningful access and to reflect improved approaches to providing language access.
- Including in the Plan and/or Directives information on how monitoring will take place and who is responsible for it.

*Law enforcement agencies are encouraged to use this document as a starting point for developing a language assistance policy and language assistance implementation plan, and to modify it as appropriate to meet the needs of the particular Department. Additional guidance, tips, and tools can be found at <http://www.lep.gov>. Comments and recommendations are welcome. Please send them to: Coordination and Review Section, LEP Initiative, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Ave., NW, NYA Bldg., Washington, DC 20530*