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February 28, 2014

Esteemed members of the Language Access Group:

I am a certified Spanish-English court interpreter who has been interpreting in legal proceedings and teaching court interpreting at the Monterey Institute of International Studies for over 35 years (I became certified the first time the exams were given in 1979 and 1980). I have written training manuals that are used by court interpreters all over the world, and I am a co-author of *Fundamentals of Court Interpretation – Theory, Policy and Practice*, widely recognized as the definitive work in this field. I have consulted with numerous government and private entities about the training and testing of court interpreters, so I can safely say that my opinion carries considerable weight.

I am writing this letter to support the effort to provide certified interpreters for civil proceedings in the California courts. However, I would also like to express my concern about the suggestion that interpreters in civil courts need not be certified, or that a sub-class of interpreters might be created by administering an easier exam.

Anyone who has worked in civil proceedings knows how critical it is for the court to assess the credibility of witnesses and the validity of litigants' cases, given that the outcome of such litigation can have such a tremendous impact on the lives and property of individuals and their families. Such an assessment cannot take place without accurate interpretation of statements made by participants who have limited English proficiency. It has long been accepted that interpreting court proceedings is an extremely difficult and complex task that cannot be left to individuals whose skills are deficient (see references below), which is why the State of California pioneered certification exams for court interpreters in 1979, soon followed by the federal courts and many other state court systems.

Most of the focus in efforts to improve the quality of interpreting in our court systems has been on criminal proceedings, in view of the high stakes involved in those matters. It is laudable that our judicial authorities are now undertaking to redress the long-standing neglect of the other side of the justice system by providing for the presence of interpreters in civil proceedings as well. The State of California would tarnish its reputation as a leading light in guaranteeing civil liberties if it were to detract from this achievement by condoning the use of inferior interpreters in civil proceedings. I urge you to uphold the highest standards of quality when addressing the needs of some of the most vulnerable members of our population. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Holly Mikkelson". The signature is written in a cursive, flowing style.

Holly Mikkelson
(831) 455-9089
holly@acebo.com

References

Gonzalez, R.D., Vasquez, V. and Mikkelson, H. (2012). *Fundamentals of Court Interpretation – Theory, Policy and Practice*, 2nd Ed. Durham, North Carolina: Carolina Academic Press.

Hewitt, W. (1995). *Court Interpretation: Model Guides for Policy and Practice in the State Courts*. State Justice Institute.

United States Department of Justice (2010, August 16). *Language Access Guidance Letter to State Courts from Assistant Attorney General Thomas E. Perez*

California Courts Language Access Plan – Comments

The Riverside Superior Court would like to take this opportunity to detail the challenges that we will need to overcome in order to provide full access to justice to LEP individuals, and be successful in the expansion of interpreter services in civil (non-mandated areas).

Current Challenges for Providing Meaningful Access to LEP Court Users in Civil (Non-Mandated Areas):

- Presently, there are limited interpreter resources available statewide, specifically in OTS and ASL.

For the past nine years the top two languages usage for Riverside has been Spanish and American Sign Language (ASL).

In 2013, the third highest language used in Riverside was Tagalog. However there are only 4 certified Tagalog interpreters in the state of California, which makes finding an interpreter challenging, costly, and many times results in continuances. The shortage of Tagalog Interpreters has been a problem for many years and must be addressed.

Having to compete with 57 other counties for ASL and OTS interpreters becomes time consuming for the limited court staff available to perform this function. The process requires extra clerical work and time to adhere to the burdensome process under the SB371 “diligent search” guidelines. With the decrease in interpreter resources, the coordinator workload increases, and makes it difficult to secure an interpreter. Also, as a result of needing to compete with other courts for the same interpreter resources, it is difficult to timely secure/hire and interpreter for a court assignment. When we finally are able to secure an interpreter, the cost is usually higher than the standard state rate.

- We have a shortage of Interpreters for indigenous languages. The need for interpreters for indigenous languages will continue to increase, making it problematic to guarantee and interpreter will be available for the date needed.
- A decrease in the number of certified ASL interpreter for legal settings (Specialist Certificate: Legal- SC:L). Riverside has a comparatively large population of deaf and hard-of-hearing individuals, partly due to the California School for the Deaf, one of only two such specialty schools in the state. National studies indicate that approximately

10% of the total population is deaf. In Riverside, that number is estimated to be 17%. Therefore our deaf court users and jurors needing an ASL interpreter are greater.

Riverside has 4 Certified ASL interpreters available, and 9 -certified that are out of state that we use to assist with trials. There are also 17 non-certified ASL interpreters that we use when there are no certified ASL Interpreters available. Even with the added non-certified resources, we still have trouble filling all of our needs and have had to continue cases or juror's service dates.

- Limited bilingual candidates to fill clerical staff vacancies. Riverside has a large LEP population of 39.8%, yet it has a very limited number of bilingual applicants to fill clerical positions. The persons below poverty level in Riverside for 2008-2012 were 15.6%. Of civil cases filed, 38 % had a fee waiver request.
- Inadequate funding for coordinator position to coordinate the use of interpreters in non-mandated areas via "Incidental Use" GC 26806(c).
- No funding is provided for management, supervisory or staff positions required to properly operate the Interpreter Services department responsible for the coordinating, hiring and assigning of interpreters.
- Limited statistical data on the courts LEP users for non-mandated areas which make it difficult to determine our current and future needs.

Statewide Implementation Suggestions:

- The plan should make recruitment and outreach a top priority in the various spoken and sign languages. This is an area where the public, media, schools, unions, and the courts can assist.
- SB 371 cleanup legislation (or Exempt Clause) regarding use of Contract Interpreter and the 100-day limit. Adding additional areas of litigation will cause the Independent contractors to reach their 100-day limit quicker, making them un-available for criminal mandated matters later in the year in their home geographical area.
- There is insufficient funding provided for supervision, administrative overhead, and other costs to operate an effective Interpreter Services Division. The Judicial Council does not currently reimburse trial courts for the cost of supervisors in the majority of the counties and only provides reimbursement for one "certified or registered

interpreter” coordinator under TCTF Program 45:45 funds, regardless of the size or population of the counties. It is recommended adequate funding be allocated to all courts to cover supervision, “non-interpreter” coordinators, and administrative overhead costs.

- Program 45:45 does not provide funding for other interpreter services related costs such as pagers needed to coordinate courtroom coverage, assisted listening devices for multiple defendant cases, Language Line services, telephones used for in-house interpreter hotline services, etc. It is recommended a study be conducted among courts to identify these other costs and establish a funding mechanism for these expenses become reimbursable. Many of these interpreter related items or processes assist the courts in using their court interpreter resources more efficiently.
- Non-mandated areas of law are not part of the diligent search criteria outlined in SB371. It is recommended the Judicial Council develop less burdensome criteria for courts to follow when hiring interpreters in civil (non-mandated cases). There are non-certified and non-registered interpreters that have completed their Interpreting education or curriculum but are waiting to pass their exam to become certified or registered interpreters. Using them in non-mandated areas would help them acquire practice and experience while providing a much needed service to the LEP community. Guidelines should include alternative efficient solutions to provide an interpreter, including Video Remote Interpreting (VRI), use of interpreter volunteers, bilingual court staff, internal telephone hotlines and Language Line services. Some of these options will address the current waste of valuable interpreter time currently used to travel 3 to 6 hours to interpret a 15 minute hearing.
- Revise the AOC Payment Policies for Contract Court Interpreters to include that an interpreter is presumed “not available” when requesting rates above the state rate when there are no apparent “unusual circumstances” for requesting rates above the state rate. Establishing consistency around the state will limit price gouging and end the practice of courts out-negotiating each other when scheduling an interpreter.
- The AOC should assist courts in capturing data for LEP court users needing an interpreter in civil (non-mandated areas).
- As the Civil and Small Claims advisory Committee develop new forms, it is recommended the mandatory Judicial Council forms FW-001-INFO Information Sheet on Waiver of Superior Court Fees and Costs, FW-001 Request to Waive Court Fees, FW-002 Request to Waive Additional Court Fees, and FW-003 Order on Court Fee Waiver be revised in accordance with the council’s action. The new form for parties to request interpreters in civil matters should indicate the need for timely notification to the trial

court, specifying the amount of time required by the party to notify the courts. This would give courts ample time to schedule an interpreter. Having sufficient time will help to avoid unnecessary continuances and high costs associated with securing an interpreter on the same day.

- We recommend a “pilot” statewide approach where a few case types (like UD’s, parental termination, and civil harassments) are selected for implementation. Program 45:45 reserve would be used to implement the pilot. The pilot should require that data be kept so that it could be analyzed to determine current and future funding needs. Since the reserve are “ONE TIME MONEY”, caution should be taken not to make the pilot too broad and therefore placing the court in a position of not being able to continue providing the interpreter services for civil if funding discontinues. We support a statewide approach for implementing the Language Access Plan.
- We recommend that the AOC/Judicial Council develop a priority list to be used by the courts as a guideline for the civil areas. This would provide uniformity within the counties.



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California's protection and advocacy system

March 27, 2014

Honorable Tani G. Cantil-Sakauye
Chief Justice
California Supreme Court
350 McAllister Street
San Francisco, CA 94102

Honorable Steven Jahr
Administrative Director of the Courts
Administrative Office of the Courts
455 Golden Gate Avenue
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Honorable Maria P. Rivera
Co-Chair, Joint Working Group for
California's Language Access Plan
California Court of Appeal
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Honorable Manuel J. Covarrubias
Co-Chair, Joint Working Group for
California's Language Access Plan
Superior Court of California
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Honorable Steven K. Austin
Chair, Ad Hoc Joint Working Group to
Address Court Interpreter Issues
Superior Court of California
County of Contra Costa
725 Court Street
Martinez, CA 94553

RE: Recommendations for California Courts Language Access Plan
and \$12.9 Million TCTF Court Interpreter Surplus

Dear Chief Justice Cantil-Sakauye, Judge Jahr, Justice Rivera, Judge
Covarrubias and Judge Austin:

Thank you for the opportunity to provide public comments to the Judicial
Council of California's Joint Working Group for California's Language
Access Plan (Council) on March 13, 2014 in Sacramento. Disability Rights

California (DRC) is a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities. DRC provides these written comments for your file.

DRC has extensive experience working with, and advocating for, individuals with disabilities from multicultural and multilingual communities. We produce documents and publications that are available in 14 of California's most commonly used languages and many of our materials are posted online in 6th grade Plain Language.

DRC also advocates extensively for equal access to information and services for individuals with disabilities from Limited English Proficiency (LEP) and underserved communities. This includes our sponsorship of Senate Bill (SB) 555 (Correa), ensuring that individuals with developmental disabilities receive certain information, processes, and services in their native language.

DRC offers unique viewpoints and perspectives that can lead to improving services to the LEP community, including LEP communities with disabilities. To achieve this goal, DRC provides the following general comments:

1. Disability Rights California supports the recommendations in the legal services letter of March 4, 2014.
2. DRC encourages the Council to engage legal services and disability rights agencies throughout all phases of the Language Access Plan development and implementation.
3. DRC believes the Council should consider the use of interpreters at all points of contact and not just in the courtroom. DRC does agree that more stringent certification requirements for courtroom interpreters are appropriate due to the technical nature of the interpreting required.
4. DRC asks the Judicial Council to ensure that all court materials and websites are language and disability accessible. Whenever possible, Plain Language should be used.

5. DRC encourages the use of different media sources, including the use of ethnic and social media when disseminating information about rights and availability of interpretive services. Social media should be used in a manner that takes into account the cultural issues present in LEP communities.
6. The Council should implement a coordinated system to let LEP communities know about the ability to obtain free interpretive services, thus reducing the need for the use of families and friends who may not provide appropriate or adequate interpretative assistance.

Below, we provide recommendations that are specific to the issue of disability and the LEP population. Large numbers of individuals with disabilities are also non-native English speakers and face multiple barriers in obtaining services and accessing the judicial system. In many cases, there can be a significant overlap between the disability, language communication needs, and the ability to understand the proceedings. In addition to deafness, many disabilities can impact communication and comprehension. Intellectual or developmental disabilities, blindness or visual impairments, mental health issues, certain physical disabilities, or medication can all impact an individual's ability to understand proceedings and communicate effectively. Due to the above, we provide the following recommendations:

1. To the extent any prioritization of individuals is necessary for language access, DRC encourages the Council to consider providing priority for people with disabilities who require language access. This would be in addition to any priority that is provided to people of limited means or other situations where the Council deems that priority for language access is appropriate.
2. DRC also requests that the Council be very clear in stating that if someone has a communication issue related to a disability, that it is separate from language access issues due to LEP. Disability accessibility is different than language access, although both are vital. In any plan covering communication services for people with disabilities, including sign language interpretation, the provision of information in alternative and accessible formats, and reasonable accommodations, it should be made clear that these are services

required by the Americans with Disabilities Act (ADA) and Sec. 504 of the Rehabilitation Act as being necessary for effective access related to a disability. These are not language access issues. An individual who is deaf and speaks American Sign Language or Chinese Sign Language, for example, should get a sign language interpreter pursuant to requirements under the ADA and Rehabilitation Act. This would help to ensure that the accommodation needs of individuals with disabilities are met as required by federal and state law.

3. Therefore, these services and accommodations need to be available independent of the language access budget and plan.

Disability Rights California is committed to assisting the Council in any way that we can in navigating these issues. We sincerely appreciate the opportunity to provide comments, both oral and written, and we look forward to working with you in the future.

Sincerely,



Alan Goldstein
Managing Attorney
Disability Rights California



Tho Vinh Banh
Staff Attorney
Disability Rights California

**California Courts Statewide Language Access Plan
Legal Services & Community Organizations
Comments to Draft Outline of December 11, 2013**

The undersigned organizations write to present detailed comments, recommendations, and draft language regarding the California Courts Statewide Language Access Plan (LAP). This document elaborates upon the Court Language Access Letter submitted by over 40 organizations on March 4, 2014. We begin by stating some guiding principles we believe are critical as the Judicial Council moves forward in developing, finalizing, and implementing the LAP. We thank you for the opportunity to provide these comments and look forward to working with you to make the LAP a reality in California.

GUIDING PRINCIPLES

Ensure Equality. The experiences of limited-English proficient (LEP) individuals both inside and outside the courtroom must be the same as those of English speakers. That is the very purpose of language access and must be the overarching principle that guides all efforts. There are many means by which this goal may be achieved, including those listed below. But no matter the method, the end result must be *equivalence*, meaning that the subjective experiences of both groups are the same so that they can make informed choices based on their understanding of what is conveyed.

Follow the Beacon of Poverty. Poverty is the beacon; the priority must be to help those LEP individuals eligible for fee waivers with a focus on case types that impact fundamental rights. As a starting point, funds should **be spent on indigent individuals** with fee waivers. As services are developed and new funds secured, incremental expansion should also occur based on economic need. Courts should:

- **Begin by Immediately Providing Interpreters in Certain Proceedings:** Although interpreters are required by law to be provided in all civil courtrooms, proceedings with the most significant consequences for litigants should be given priority, even while more comprehensive plans are being developed. As an interim measure, fee waiver litigants, non-mandated restraining orders, family law custody and visitation, unlawful detainers, guardianship, and conservatorship matters should be prioritized. In addition, current delays in providing interpreters in mandated cases must be eliminated.
- **Include More Legal Services Providers on a New Language Access Oversight Committee:** With their decades of experience representing the populations suffering most acutely under current policy, legal services will prove invaluable in devising solutions to the language access crisis.

Language Access Must Be Routine. Language access should be viewed as just another cost of doing business, such as utilities or other essential operating expenses. As recipients of federal and state funds, the law requires no less. While we support increased funding for interpreters,

the culture must be changed so that language access is seen as an integral and routine part of every budget, rather than an extraordinary expense unjustified by the cost.

The following measures can help:

- **Increase Bilingual Staffing:** Make bilingual ability a *sine qua non* of all future court hiring of all positions involving public contact — these positions should require proficiency in languages commensurate with the needs of local communities.
- **Hire More Interpreters:** Increase the numbers of interpreters available and retain quality by qualifying a new level of interpreters with consecutive interpretation skills for certain non-courtroom settings.
- **Create a Language Access Office:** Create an independent language access office in each court, like the current Americans with Disabilities Act compliance offices, which would maximize efficiency and utilize all available interpreters and translators.
- **Train Court Staff & Judges:** Create and provide an annual training on the Language Access Plan, working with interpreters, and on how to be an effective interpreter for bilingual staff.

Develop and Implement a Language Access Plan Consistent with Legal Mandates. Courts receive federal and state funds with important strings attached that can no longer be ignored. Instead, the courts must develop and implement a plan that meets or exceeds all statutory and regulatory requirements. It should:

- **Adhere to the U.S. Department of Justice’s (DOJ) LEP Guidance:** Implement DOJ’s hierarchy of oral language services and safe harbors for written translation to improve language access at all points of contact.
- **Identify and Address All Language Needs in the Community Working with Local Language Access Oversight Committees:** Although Spanish-speakers are the largest LEP group in California, courts should engage in robust data collection, analysis, and enhanced staffing to meet the needs of all LEP court users.
- **Create a Statewide Office of Language Access:** A statewide office can help to ensure the coordination and enforcement required to achieve success of the Language Access Plan.
- **Utilize Technology:** Secure separate, additional new funding for technology to help provide cost-effective and efficient language access services.

I. Legal Background and Importance of Providing Full Coverage for All

We believe that the LAP should contain strong language concerning legal background and mandates, as well as a clear commitment to providing full access for all Californians. As stated in our guiding principles, we believe that a culture change must occur throughout the court system, including the Administrative Office of the Courts (AOC), judicial officers, court staff/personnel, and independent contractors. This message must be made clear to all court users. All those who are part of the court system must be trained to understand the court's expanded commitment to language access and their own role in effectuating that commitment. It is critical for the LAP to also address the importance of training court staff on language access services and requirements to ensure a standardized delivery of language services across court locations.

PROPOSED LAP LANGUAGE: Relevant parts of the LAP draft outline include Section II, Part A; Section III, Part C; Section IV, Parts A, B.

Introduction

California is among the most racially, ethnically, and linguistically diverse states in the nation. Over 27 percent of Californians are foreign-born, compared to nearly 13 percent nationally.¹ In fact, 40 percent of Latinos and 59 percent of Asians in California are foreign-born.² Californians speak over 220 languages³, and 43 percent of Californians speak a language other than English in their homes.⁴ This wide variety of backgrounds and languages provides great cultural enrichment for California. Many individuals, however, who speak other languages are also limited-English proficient (LEP) and face tremendous barriers. The top five primary languages spoken in California after English include:

- Spanish – 9,961,284 speakers, of which 46% are LEP;
- Chinese – 1,036,982 speakers, of which 56% are LEP;
- Tagalog – 765,033 speakers, of which 33% are LEP;
- Vietnamese – 512,456 speakers, of which 60% are LEP; and
- Korean – 375,383 speakers, of which 59% are LEP.⁵

¹ See U.S. Census Bureau, *State & County QuickFacts*, available at:

<http://quickfacts.census.gov/qfd/states/06000.html> (listing 2008-2012 figures for foreign-born individuals).

² Asian American Center for Advancing Justice, *A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in California* (2013), at 14, available at http://advancingjustice-la.org/system/files/Communities_of_Contrast_California_2013.pdf.

³ See California Commission on Access to Justice, *Language Barriers to Justice in California*, at 1 (2005), available at: <http://www.calbar.ca.gov/LinkClick.aspx?fileticket=79bAIYydnho%3D&tabid=216>.

⁴ See U.S. Census Bureau, *State & County QuickFacts*, available at:

<http://quickfacts.census.gov/qfd/states/06000.html> (listing percentage of people over age 5 speaking language other than English at home, 2008-2012).

⁵ U.S. Census Bureau, American Fact Finder, *Table B16001, Language Spoken at Home by Ability to Speak English, 2008 – 2012, American Community Survey 5 Year Estimates*, available at:

http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_5YR_B16001&prodType=table.

Limited-English proficiency impacts one's "ability to access fundamental necessities such as employment, police protection, and healthcare."⁶ While underrepresented groups among native English speakers often face similar challenges, these challenges are compounded for LEP individuals who must also contend with often insurmountable language barriers. Unsurprisingly, access to the courts has proven difficult for LEP individuals, who have higher rates of poverty than the general population in California.⁷

As the California Commission on Access to Justice observed in its 2005 report, "[f]or Californians not proficient in English, the prospect of navigating the legal system is daunting, especially for the growing number of litigants who have no choice but to represent themselves in court and therefore cannot rely on an attorney to ensure they understand the proceedings."⁸ The report notes that approximately 7 million Californians "cannot access the courts without significant language assistance, cannot understand pleadings, forms or other legal documents and cannot participate meaningfully in court proceedings without a qualified interpreter."⁹

Legal Background and Mandates

Both state and federal statutes provide significant protections to limited-English proficient individuals in accessing the courts. California Government Code §§ 11135 *et seq.* and its accompanying regulations provide that no one shall be "denied full and equal access to benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state," on the basis of "linguistic characteristics."¹⁰ As entities funded and operated by the state, California's courts are thus prohibited by state law from discriminating against LEP individuals.

Federally, Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations prohibit direct and indirect recipients of federal financial assistance from discriminating on the basis of national origin.¹¹ The Supreme Court and executive branch have interpreted this prohibition as requiring federal funds recipients to provide LEP individuals with meaningful access to their services.¹² As recipients of federal financial assistance, California courts are subject to the mandates of Title VI and its implementing regulations to ensure equal access to the courts by providing necessary language assistance services. The Department of

⁶ Asian Pacific American Legal Center of Southern California and APIAHF, *California Speaks: Language Diversity and English Proficiency by Legislative District*, at 2 (2009), available at: http://www.apiahf.org/sites/default/files/APIAHF_Report05_2009.pdf.

⁷ See U.S. Census Bureau, American Fact Finder, available at: http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1YR_S1603&prodType=table (listing characteristics of people by language spoken at home, 2011 American Community Survey 1-Year Estimates).

⁸ California Commission on Access to Justice, *supra* note 3, at 1.

⁹ *Id.*

¹⁰ Cal. Gov. Code §§ 11135, 11139; Cal. Code Regs. Title 22, Section 98210(b).

¹¹ 42 U.S.C. § 2000d (2004).

¹² *Lau v. Nichols*, 414 U.S. 563, 568-569 (1974) ("Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by the [Title VI] regulations."); see Executive Order 13166.

Justice (DOJ), the federal agency that enforces Title VI requirements, provides financial assistance to California courts, and on June 18, 2002, issued guidance to recipients of such funding detailing these mandates.

The DOJ's guidance is clear that language access to litigants be provided both inside and outside the courtroom.¹³ In particular, the guidance directs recipients to apply a four-factor analysis in determining the "reasonable steps they should take to ensure meaningful access for LEP persons."¹⁴ This analysis should include evaluation of: (1) the "number or proportion of LEP persons" served, (2) frequency of contact with LEP individuals, (3) the "nature and importance" of the services the recipient provides, and (4) implementation costs and available resources.¹⁵ The four factors should be used to develop and implement a "mix" of LEP services based on what is reasonable and necessary.¹⁶ Both oral interpretation and written translation services may be used, and the comprehensiveness of a given service can range widely depending on the importance of a particular program component.¹⁷ There is a clear mandate that oral interpretation services must not be subject to any thresholds for when they should be offered but be available on demand and free of charge. The DOJ makes clear in its guidance that in the courts, "at a minimum, every effort should be taken to ensure competent interpretation for LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present."¹⁸ A DOJ guidance letter dated August 16, 2010, elaborates on these requirements, explaining its view that all court proceedings are of critical importance, whether civil, criminal, or administrative in nature. Further, there is a "need to provide interpretation free of cost," and that language assistance should not be restricted only to courtroom proceedings.¹⁹

Thus, both state and federal laws require significant steps be taken to ensure that competent language access be provided free of charge inside and outside the courtroom. The DOJ has stressed that the overall goal is to ensure that language access expenses "be treated as a basic and essential operating expense, not as an ancillary cost."²⁰ Through the Statewide Language Access Plan, the California state court system will promote justice for all Californians regardless of language ability.

¹³ 67 Fed. Reg. 41455-41471 (2002).

¹⁴ 67 Fed. Reg. 41459.

¹⁵ *Id.*

¹⁶ *Id.* at 41460.

¹⁷ *Id.* at 41461-64.

¹⁸ *Id.* at 41471.

¹⁹ Thomas E. Perez, Assistant Attorney General, U.S. Department of Justice, Civil Rights Division, *Letter to State Courts*, August 16, 2010, available at: www.lep.gov/final_courts_ltr_081610.pdf.

²⁰ *Id.*

II. Robust Data Collection, Assessment, and Analysis

In order to ensure that language access is a reality for all LEP litigants, the LAP must prioritize the need for ongoing and thorough data collection of local language needs. The plan must provide the courts with the data resources and guidelines to assess the language needs of their local population. As a result of the cultural and linguistic diversity of California, however, the plan should not provide a “one size fits all” mechanism for collecting data. Instead, the courts should be required to develop their own mechanisms to ensure that they are accurately capturing the language needs of their local LEP litigants. The following covers a few of the resources upon which courts should rely to identify language needs.

Helpful resources courts may rely on for data resources include: the U.S. Census, the American Community Survey (ACS), the California Department of Education (CDE), Migration Policy Institute,²¹ local welfare agencies, and local community-based partners. It should be noted that one concern we have is that the courts may rely solely on information provided by the U.S. Census and the ACS. Although the ACS provides invaluable information of the state’s language needs, it does not effectively provide the detailed, local information courts need to adequately identify their litigants’ language needs. Thus, we ask that the LAP require courts to supplement ACS results with data collected by sources that have proven to provide a more detailed and accurate portrayal of the language needs in any given county. As discussed in further detail below, suggested reliable sources include the CDE and local welfare agencies, which are required by state and federal law to collect data on language needs. These localized data collection efforts are a source of robust data, particularly regarding indigent populations. Finally, courts must engage with local partners, ranging from legal services partners to refugee organizations to local media, to ensure that less-popular or emerging languages are properly identified. We recommend the creation of at least one local language access committees in each county for this purpose (*See Part VI below*). By relying on a variety of sources, courts will have a more comprehensive understanding of the language needs of their communities and thus will be better able to ensure they have the adequate resources to effectively provide language access services to all of its users.

Background

Nationally, the U.S. Census Bureau, which conducts the ongoing ACS, remains the primary source of language data.²² Although the ACS should remain a resource that courts use, ACS data is simply not detailed enough to accurately reflect the language needs at the local level, which is the type of information the courts require to adequately prepare for LEP litigants. One reason that the ACS alone is insufficient is that, for the purposes of reporting English proficiency among survey participants, the ACS broadly collapses languages into broader sets of language groups.²³

²¹ The Migration Policy Institute (MPI) offers resources on various language access services and projects. An example of one of their reports is available at: <http://www.migrationpolicy.org/research/limited-english-proficient-individuals-united-states-number-share-growth-and-linguistic>.

²² Legal Services Corporation (LSC) Resource Information, *Language Access Data Sources*, available at: <http://lri.lsc.gov/engaging-clients/language-access/language-data-sources>.

²³ U.S. Census Bureau, American Community Survey Reports, *Language Use in the United States: 2011*, 2 (2013), available at: <http://www.census.gov/prod/2013pubs/acs-22.pdf>.

The language portion of the ACS consists of three questions.²⁴ The first asks if the person speaks a language *other than* English at home.²⁵ If the answer is “Yes,” the person is then asked to report the language they use.²⁶ The third question asks how well the person speaks English, with answer categories of “very well,” “well,” “not well,” and “not at all.”²⁷ As of the 2011 ACS, the Census Bureau “coded” 381 detailed languages nationally.²⁸ Of these 381 languages, however, data tabulations are generally not available because the ACS further collapses these languages into 39 languages and language *groups*. Finally, for the purposes of reporting English proficiency, the ACS collapses these 39 languages into four broad categories: Spanish, Indo-European languages, Asian and Pacific Islander languages, and Other Languages.

As a result, the ACS reports that in California, for example, 19.8% of the population that speaks an Asian/Pacific Islander language self-identifies as speaking English less than “very well” without providing further detail on how English proficiency varies among the various Asian/Pacific Islander languages.²⁹ This remains true for data collected by the ACS at the local level. In Los Angeles County, for example, the ACS provides that 5.6% of the population that identifies as LEP speaks an Asian/Pacific Islander language. Only by looking at other sources of information, such as data collected by the local entities, including the welfare agency, and community-based organizations, can a Los Angeles County court identify the priority needs among the Asian/Pacific Islander LEP population, which in this case would include Korean, Cantonese, Mandarin, Tagalog, Japanese, Vietnamese, Khmer, and Thai.³⁰

Moreover, the ACS captures no language-specific data at all for some languages spoken by a significant number of California residents. The Census Bureau classifies a number of indigenous Mexican languages, which according to some researchers’ estimates are spoken by over 100,000 California farmworkers alone³¹, only by language family, not specific languages, providing no meaningful data on which to base courts’ planning for language assistance needs. “Oto-manguen languages,” for example, are counted as only one of the 381 languages coded by the Census Bureau,³² while this family is comparable in its diversity to the Indo-European language family (whose members include languages as disparate as English, Hindi, Russian,

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* The 381 languages coded by the Bureau were reduced from a list of 6,909 languages identified globally

²⁹ The Asian/Pacific Islander language group includes Chinese, Korean, Japanese, Vietnamese, Hmong, Khmer, Lao, Thai, Tagalog or Pilipino, Telugu, Tamil, Malayalam, and other languages of Asia and the Pacific, including the Philippine, Polynesian, and Micronesian languages.

³⁰ As identified by the Legal Aid Foundation of Los Angeles (LAFLA), in addition to Spanish. *See also* Asian Americans Advancing Justice – Los Angeles, *A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in Los Angeles* (2013), at 14 – 15, available at http://advancingjustice-la.org/system/files/CommunityofContrasts_LACounty2013.pdf.

³¹ Mines, Richard et al, *California’s Indigenous Farmworkers, Final Report of the Indigenous Farmworker Study (IFS) to the California Endowment* (2010) at 40, available at: <http://www.indigenousfarmworkers.org/IFS%20Full%20Report%20Jan2010.pdf>.

³² See U.S. Census Bureau, *About Language Use*, Appendix A: Primary Language Code List, available at: https://www.census.gov/hhes/socdemo/language/about/02_Primary_list.pdf.

Greek, and German). Oto-manguen languages include Mixteco and Triqui, two of the three languages most commonly spoken among indigenous farmworkers in California.³³

As discussed in further detail below, courts must supplement U.S. Census data in order to accurately assess the language needs of their local litigants. National data sources such as the ACS and the Migration Policy Institute provide a strong starting point, but state and local governmental agencies are collecting more detailed information that the courts should use.

California Department of Education

Language data for all students enrolled in California schools is collected by school districts and is made available to the public on the CDE's DataQuest website.³⁴ Under state and federal law, school districts are required to properly identify, assess, and report all students who have a primary language other than English. All students, upon initial enrollment, are given a Home Language Survey, which may trigger additional and more formal language assessments.³⁵ Through this formal assessment process school districts are able to properly identify students who are English Learners (EL). According to the CDE, an EL is a student "for whom there is a report of a primary language other than English on the state-approved Home Language Survey and who, on the basis of the state approved oral language (grades kindergarten through grade twelve) assessment procedures and literacy (grades three through twelve only), have been determined to lack the clearly defined English language skills of listening comprehension, speaking, reading, and writing necessary to succeed in the school's regular instructional programs."³⁶

According to data posted on the CDE's DataQuest website, there were approximately 1.3 million EL/LEP students enrolled in California schools during the 2012-13 school year. EL students comprised 21.6% of total state enrollment. Although some 60 EL language groups are listed, Spanish is the primary language for 85% of all California EL students. The other top five language groups include: Vietnamese (2.3%); Tagalog (1.4%); Cantonese (1.3%); Mandarin (1.1%); and Arabic (1.0%).³⁷

In addition to identifying the total number of EL students by language group, the CDE website also provides data concerning another language-related student category referred to as Fluent English Proficient (FEP). According to the CDE, FEP students "are the students whose primary language is other than English and who have met the district criteria for determining proficiency in English (i.e., those students who were identified as FEP on initial identification and students redesignated from limited-English-proficient [LEP] or English learner [EL] to

³³ Mines, *supra* note 31, at 40.

³⁴ The CDE's DataQuest website can be found at: <http://data1.cde.ca.gov/dataquest/>.

³⁵ See, Education Code §§ 52164.1. 313; 5 CCR §§ 11307(a), 11511; Equal Educational Opportunities Act (20 U.S.C. §§ 1701 et seq.; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); *Castaneda v. Pickard* (5th Cir. 1981) 648 F.2d 989.

³⁶ See, definition of "English Learner (EL) Students (Formerly Known as Limited-English-Proficient or LEP)" under the CDE's Glossary of Terms at: <http://www.cde.ca.gov/ds/sd/cb/glossary.asp#f>.

³⁷ See, DataQuest Report, *English Learner Students by Language by Grade 2012-13*, available at: <http://data1.cde.ca.gov/dataquest/SpringData/StudentsByLanguage.aspx?Level=State&TheYear=2012-13&SubGroup=All&ShortYear=1213&GenderGroup=B&CDSCode=00000000000000&RecordType=EL>.

FEP).³⁸ This category is important because it is used by the CDE and school districts to determine the primary language spoken at home and to what extent students come from homes where English is not the primary language, thus triggering the obligation to provide notices translated in a language a parent or guardian understands. In California, 21.5% of all students are identified as FEP and 43.1% (combined EL/FEP) of all students enrolled in California schools come from homes where English is not the primary language. Spanish remains the largest FEP language group at 72.6%. Following Spanish is: Vietnamese at 3.9%, Tagalog at 3.0%, Cantonese at 2.8%, Mandarin at 2.8%, and Korean at 2.1%.³⁹

EL/LEP and FEP data by language group is readily available for all counties through the CDE's DataQuest website.⁴⁰ This is important to note, because some counties are more heavily EL/FEP impacted than others. The following is a list of some of the more heavily EL/FEP impacted counties and includes the total percentage of EL/FEP enrollment:

- Colusa – 61.7%
- Imperial – 66.8%
- Los Angeles – 52.4%
- Merced – 50.9%
- Monterey – 62%
- Orange – 48%
- San Francisco – 55.8%
- Santa Clara – 52.2%

The CDE DataQuest website provides a reliable source for obtaining both EL and FEP language data for the courts and is especially relevant for the juvenile court divisions. It is important to stress that the FEP data is equally as important as the EL data, in that it provides relevant information concerning the language status of parent and guardians.⁴¹

³⁸ See Definition of “Fluent English Proficient (FEP)” under the CDE’s Glossary of Terms at:

<http://www.cde.ca.gov/ds/sd/cb/glossary.asp#f>.

³⁹ See DataQuest Report, *Fluent-English-Proficient Students by Language by Grade 2012-13*, available at:

<http://data1.cde.ca.gov/dataquest/SpringData/StudentsByLanguage.aspx?Level=State&TheYear=2012-13&SubGroup=All&ShortYear=1213&GenderGroup=B&CDSCode=00000000000000&RecordType=FEP>.

⁴⁰ See DataQuest Report, *Selected Statewide Data Summarized by County for the Year 2012-13*, available at:

<http://data1.cde.ca.gov/dataquest/Cbeds1.asp?Enroll=on&PctEL=on&PctFEP=on&cChoice=StatProf2&cYear=2012-13&cLevel=State&cTopic=Profile&myTimeFrame=S&submit1=Submit>.

⁴¹ It should be noted that the Department of Justice conducted a compliance review of language services of Santa Clara County’s juvenile justice system, which included the Santa Clara County Superior Court. In conducting its review, the DOJ noted with respect to the juvenile justice system, that it was particularly concerned about how critical pre-adjudication decisions were made with respect to LEP stakeholders and “was especially interested in assessing whether language barriers faced by parents affect these key decisions.” U.S. Department of Justice-Office of Justice Programs, Office for Civil Rights, *Compliance Review of the San Jose Police Department* (10-OCR-0109); Santa Clara County Probation Dep’t (10-OCR-0110); Santa Clara County Office of the District Attorney (10-OCR-0111); Santa Clara Office of the Pub. Defender (10-OCR-0112); Santa Clara County Super. Ct. of Cal. (10-OCR-0113); and Santa Clara County Dep’t. of Alcohol and Drug. Servs. (10-OCR-0114)(May 12, 2011).

Local Welfare Agencies

The courts should develop their own mechanisms for data collection regarding LEP litigants and the languages they speak. However, until those mechanisms are fully operational, the courts can and should also look to LEP data collected by welfare agencies. The Dymally-Alatorre Bilingual Services Act requires all local public agencies to determine and maintain statistics regarding the “number and percentage of non-English-speaking people served by each local office, broken down by native language.”⁴² This data should therefore be available from all county welfare agencies.

By way of example, the website of the Los Angeles Department of Public Social Services provides quarterly reports of “caseload characteristics” going back to the year 2003, and up through the third quarter in 2013.⁴³ Each report indicates the primary language of every distinct population receiving different benefits for all of Los Angeles County. For example, the most recent quarter of data available shows that of 562,498 persons receiving CalFresh, or food stamp benefits, 169,991 spoke Spanish, 8,314 spoke Armenian, and 3,691 spoke Chinese as their primary language.⁴⁴ This same data is available for the ten most commonly-spoken languages for LEP recipients of California Work Opportunity and Responsibility to Kids (CalWORKs), General Relief, In Home Supportive Services, and Cash Assistance Program for Immigrants. Importantly, any litigant who receives these benefits will automatically qualify for a court fee waiver.⁴⁵

While the data provided here is from Los Angeles County, all county agencies are required to collect it. The California Department of Social Services (CDSS) collects the county data, by language and program. This report, the ABCD 350, is updated annually in July. It can be found on the CDSS website.⁴⁶ Additionally, all counties are required to provide an annual Civil Rights Plan⁴⁷ to the CDSS. In this plan, counties are asked to determine if there are emerging language populations, to prepare for new immigrants who are likely to be LEP. Courts can obtain these county plans from the local county, or from the CDSS Civil Rights Bureau. This data provides the California courts with a very robust estimate of the language needs of litigants who will qualify for fee waivers based on their receipt of public benefits. Experience indicates that most litigants who do qualify for fee waivers will do so based on receiving such benefits.

⁴² Cal. Gov. Code § 7299.4(b)(4). The data is based on self-reporting by benefits recipients, and therefore may lead to a slight undercount vis-à-vis litigants in the court system due to various factors. For example, undocumented immigrants are prohibited from receiving many of these benefits, but will be litigants in court proceedings.

Similarly, some persons may choose to report English as their primary language so long as they have a child who can interpret when interacting with case workers, but that interpretation would be insufficient in court proceedings.

⁴³ Los Angeles County Department of Social Services, *Information & Statistical Services*, available at: http://www.ladpss.org/dpss/ISS/archives_characteristics_rpts.cfm.

⁴⁴ *Id.*

⁴⁵ Cal. Gov. Code § 68632(a).

⁴⁶ <http://www.dss.cahwnet.gov/research/PG369.htm>.

⁴⁷ <http://www.cdss.ca.gov/civilrights/res/pdf/CR28ANNUALPLAN.pdf>.

Some litigants will instead qualify for fee waivers because their income falls under 125% of the federal poverty line.⁴⁸ While no strict equivalent to this threshold exists to qualify for a particular benefit, a close analog can be found in the Medi-Cal data that is currently being collected pursuant to the Medi-Cal expansion under the Patient Protection and Affordable Care Act. Under those new rules, adults between the ages of 19 and 64 are generally eligible for Medi-Cal if their income is below 138% of the federal poverty line.⁴⁹ This data will likely track similar numbers to those who qualify for fee waivers due to falling under the 125% threshold. This data also must be collected by county welfare agencies, and should be available either via public websites of, or upon request to, those agencies. Other Medi-Cal programs may also provide useful data pursuant to future expansion of interpreter services to higher-income groups, since some Medi-Cal programs have income thresholds as high as 250% of the federal poverty line.

In short, publicly collected data available from local welfare agencies can provide strong estimates of LEP needs in the courts. The LAP can and must include a provision to rely upon this data to ensure that language access needs are met in the most efficient way possible.

Other Local Resources

Courts should also work closely with advocacy organizations and community-based groups, particularly those that are serving refugee/immigrant populations, in order to ensure that courts properly identify and service emerging languages, indigenous languages, and other languages of lesser diffusion. Local organizations provide more detailed information about the *extent* of the demand for language services among the various language subgroups in addition to the particular barriers these individuals face in their efforts to access the courts. Such organizations can also identify or provide the necessary interpreters for these lesser-spoken languages.

PROPOSED LAP LANGUAGE: Relevant parts of the LAP Outline include Section III, Parts A, B, D2.

Each county court system shall immediately create and adopt a plan to develop its own local data regarding LEP litigants and the language they speak. Within a year from the date of this plan's effective date, courts shall publish their initial language assessment and data methodology for feedback by stakeholders.

Until each court is able to rely upon data of its own collection, it shall utilize data provided by such sources as the U.S. Census and the American Community Survey (ACS). Local courts must also supplement Census data with data collected by the California Department of Education (CDE). Federal and state laws require CDE to properly identify, assess, and report all students who have a primary language other than English. Relying on this data, school districts are able to provide school notices in the language a parent or guardian understand. Thus CDE data is another valuable source for accurate reflection of a community's language needs.

⁴⁸ Cal. Gov. Code § 68632(b). While useful now, older Medi-Cal data reflects other variables and thresholds so may not be as precise as the Medi-Cal numbers tracked under the ACA.

⁴⁹ 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII).

Courts shall also rely upon data collected pursuant to the Dymally-Alatorre Bilingual Services Act, Gov. Code § 7299.4(b)(4), by local public agencies that administer public benefits programs. This data provides the languages spoken by most or all county residents who will qualify for fee waivers by virtue of their receipt of a qualifying benefit program pursuant to Cal. Gov. Code § 68632(a). All available data shall be collected for each benefits program referenced in § 68632(a). This data should be the primary factor informing the provision of interpretative services in each language in county courts.

Courts shall also rely upon data collected pursuant to the administration of Medi-Cal. Medi-Cal data provides the languages spoken by all adult county residents who will qualify for Medi-Cal services by virtue of their income falling below 138% of the federal poverty line. It shall be used to determine estimates of the languages spoken by LEP litigants who will qualify for fee waivers by virtue of their income falling below 125% of the federal poverty line. In all cases, local court systems should utilize data that is publicly available through local welfare agencies *or* by working with those agencies to obtain data that may not be posted publicly. Local court systems should exert all reasonable efforts to obtain information by county agencies regardless of whether the data is publicly available. In no case shall a local court system fail to collect such data based upon a conclusion that the data is not publicly posted on a county agency's website.

Even after a court has data of its own collection to rely upon, it must also utilize welfare and Medi-Cal data to ensure that it is accurately collecting its own data and to identify language needs. Finally, local courts shall ensure that they update any data upon which they rely no less than once per year.

Data collection efforts shall be in conjunction with and complement the Judicial Council's requirement to report to the California State Legislature on the use of interpreter services in the courts and to report annual statewide court interpreter expenditures (<http://www.courts.ca.gov/2686.htm>).

III. Clear Policies and Procedures for Identifying Language Needs and Providing Interpreters throughout Court Proceedings

We request that the Judicial Council and local courts create a clear process to facilitate the appointment of interpreters in civil cases. Currently, the provision of interpreters is inconsistent and unpredictable. It differs even from one courtroom within the same courthouse to the next and is highly dependent on the judicial officer and court staff. When requesting an interpreter, litigants are often provided with conflicting information at every turn. Litigants are instructed to make requests in various places – the filing room, the specific department, the interpreter’s office directly, sometimes looping around in circles until they give up. These requests are sometimes granted and sometimes denied without any standards or consistency. Even when granted, interpreters often do not appear, either because the departments do not call for one, or one is unavailable, according to the interpreter’s office.

As consistently documented in testimony and written comments submitted to the Judicial Council, there are often long delays while litigants and attorneys wait for someone to be reassigned from a criminal courtroom. Delays of hours, days, even months are not uncommon even with Spanish-speaking litigants and in domestic violence cases where interpreters are mandated under California Evidence Code section 755. Courts must address these current problems immediately. In some departments, however, we consistently obtain interpreters so we do know it is possible. The process laid out in the plan should include identification of language needs up front and a clear process for providing interpreters without placing the burden on the litigants to follow-up repeatedly and remind the court.

Further, there should be an interim policy put into place immediately for the provision of interpreters for indigent LEP litigants. The current \$13 million Trial Court Trust Fund surplus should be used to begin this process while the LAP is developed. This is well within judicial discretion and must include appropriate training for all court staff and judicial officers. Although our position is that *all* LEP litigants should be provided interpreters for all proceedings, we believe that creating a process for indigent litigants and specific case types is an immediate attainable step as the California Language Access Plan is developed and implemented.

As part of these interim measures, all courts should be required to hire new and/or utilize additional certified (or registered) interpreters for prioritized cases. Prioritized cases should include fee waiver litigants, non-mandated restraining orders, family law custody and visitation, unlawful detainers, guardianship, and conservatorship matters. As mediation may be required in restraining order and related family-law cases, qualified bilingual mediators or certified interpreters should be assigned to handle the related services as well. Utilizing current funds, courts must also eliminate the unreasonable delays of hours, days, or weeks that presently exist in providing interpreters in mandated cases.

Our suggestions for language for an interim policy and for the LAP are detailed below.

PROPOSED INTERIM POLICY LANGUAGE (to be implemented immediately)

1. Identifying Language Needs at Case Inception
 - a. For immediate implementation:
 - i. Revise existing FW-001 Request to Waive Court Fees to include the following line under #1, "Your Information":
"Interpreter needed? yes no
If yes, language(s) requested: _____"
 - ii. Allow for the grant of the initial fee waiver to cover waiving interpreter fees and costs. As such, amend California Rule of Court 3.55 to include interpreter fees and costs as waived by granting the initial fee waiver and revise existing FW-003 Order on Court Fee Waiver to include under #4(a)(1) a bullet point stating, "Court-appointed interpreter fees for party."
2. Ensuring language needs are met throughout the duration of court proceedings
 - a. Scheduling
 - i. Upon scheduling a court proceeding, the scheduling clerk shall immediately check the court file or the case status system for the language needs of the litigants. Accordingly, that clerk shall immediately request an interpreter(s) for the parties.
 - ii. Clerks shall make efforts to schedule interpreters to maximize efficiency.
 1. *NOTE: As a general matter, we do not support the utilization of Spanish-speaking or single language calendars. Although this concept might seem appealing, it could have disastrous consequences and should be avoided. It has the potential of creating separate and different standards, expectations, and results for certain language groups, which could have discriminatory effects. We have also heard accounts that immigration officers have come to court in certain counties where such "language calendars" occur and questioned litigants. If this occurs, it will discourage immigrants from accessing courts and defending their rights. For this reason, we believe that courts should avoid such language calendars.*
 - iii. Also, to increase efficiency in the interim, certain cases requiring interpreters shall be prioritized, including: fee waiver litigants, non-mandated restraining order hearings, family law custody and visitation hearings, unlawful detainer hearings, guardianship hearings and conservatorship hearings. This shall include the provision of language services for mediation and other required ancillary court services.
 - iv. The list above assumes that mandated domestic violence-related cases are already prioritized and interpreters should be provided in these proceedings and ancillary court services without delay.
3. Courts shall transfer, reassign, hire and/or contract with certified (or registered) interpreters to meet the needs and priorities in this section.
4. Training for all clerks and court staff on policy and procedure on interpreter requests
 - a. Courts shall provide immediate training to all court staff on current changes to procedures

- b. Court shall also provide regular language access training and policy updates to all court staff as other changes are implemented.
5. Oversight & Monitoring: an interim complaint and monitoring process shall be created to ensure and evaluate implementation.

PROPOSED LAP LANGUAGE: Relevant parts of the LAP Outline include Section III, Part D1; Section IV, Part A; Section V, Part A.

1. Address Language Needs at the Earliest Points of Court Contact
 - a. Signage located both inside and outside courthouses must be translated and displayed in the top five primary languages spoken in the service area of the particular courthouse. Based on data collected, each county shall provide additional translation(s) for each language spoken by more than 5% or 500 persons, whichever is less, of the population of persons in the service area.
 - b. Courts to prominently display signage notifying litigants of their right to an interpreter. Signs should be displayed in the top five primary languages, as well as any other predominantly spoken languages in that county. Signage to be placed at filing windows, self-help centers, and clerk's/bailiff's desks within individual courtrooms.
 - c. Access to interpreters must be ensured at points of contact outside of the courtroom, including, but not limited to: filing windows, records rooms, self-help centers, family court services, and probate investigators (*See also* Part IV below).
 - i. At aforementioned points of contact, when interpreters are not available to be personally present or the court staff does not speak the litigant's language, the court shall provide language access through remote telephonic or video interpretation.
2. Identifying Language Needs at Case Inception
 - a. Creation of Language Needs Form:
 - i. Create language needs form to be completed at inception of case, along with both the Petition and Response. This form shall be translated into the five primarily spoken languages in the state of California. The first page of the form will gather information on whether the litigant requires an interpreter and in what language. The first page shall be filed with the court. The second page of the form will give the litigant notice of his/her right to an interpreter and provide practical information on where and how he/she can file a complaint regarding language access. The litigant will keep this second page of the form.
 - ii. Upon receipt of a language needs form that requests an interpreter, the court clerk shall place a brightly colored sticker, filling in the language needed, in a prominent location on the court file.
 - iii. The court clerk shall also immediately input into the case status system that the litigant requires an interpreter, and what language is needed.
3. Ensuring language needs are met throughout the duration of court proceedings
 - a. Scheduling
 - i. Upon scheduling a court proceeding, the scheduling clerk shall

immediately check the court file or the case status system for the language needs of the litigants. Accordingly, that clerk shall immediately request an interpreter(s) for the parties.

ii. Clerks shall make to efforts schedule interpreters to maximize efficiency.

1. NOTE: *As a general matter, we do not support the utilization of Spanish-speaking or single language calendars. Although this concept might seem appealing, it could have disastrous consequences and should be avoided. It has the potential of creating separate and different standards, expectations, and results for certain language groups, which could have discriminatory effects. We have also heard accounts that immigration officers have come to court in certain counties where such “language calendars” occur and questioned litigants. If this occurs it will discourage immigrants from accessing courts and defending their rights. For this reason, we believe that courts should avoid such language calendars.*

4. Courts shall transfer, reassign, hire and/or contract with certified (or registered) interpreters to meet the needs and priorities in this section.
5. Training for all clerks and court staff on policy and procedure on interpreter requests
 - a. Courts shall provide immediate training to all court staff on current changes to procedures
 - b. Court shall also provide regular language access training and policy updates to all court staff as other changes are implemented
6. Oversight & Monitoring
 - a. A robust complaint process shall be developed, advertised and made widely available to litigants (*See Parts VI and VII below*).
 - b. The Language Access Oversight Committee shall, amongst other duties, monitor the courts’ written policies and websites (*See Parts VI and VII below*).

IV. Use of Interpreters and Translated Materials Inside and Outside of Courtroom Proceedings

Providing interpreters beyond the courtroom is integral for a litigant to have equal access to the legal system. Failing to do so presents an insurmountable bar to LEP litigants, which effectively shuts them out of their day in court. To remove these barriers, the courts must provide some form of interpretation at all points of contact with LEP litigants.

There should be proper staffing and language services available for LEP litigants throughout the course of their judicial proceedings. The DOJ has articulated that statutory mandates include services outside the courtroom:

Examples of such court-managed offices, operations, and programs can include information counters; intake or filing offices; cashiers; records rooms; sheriffs offices; probation and parole offices; alternative dispute resolution programs; *pro se* clinics; criminal diversion programs; anger management classes; detention facilities; and other similar offices, operations, and programs. Access to these points of public contact is essential to the fair administration of justice, especially for unrepresented LEP persons. DOJ expects courts to provide meaningful access for LEP persons to such court operated or managed points of public contact in the judicial process, whether the contact at issue occurs inside or outside the courtroom.⁵⁰

Although funding is a critical component, it cannot be cited as a barrier to implementing these policies and services. As stated above, the DOJ has made it clear that language access expenses “be treated as a basic and essential operating expense, not as an ancillary cost.”⁵¹ Some other state plans reference “external funding” for language access, and the Judicial Council should explore such opportunities.⁵² One seemingly unique approach is mentioned in Wisconsin’s LAP—the use of workforce money available through the State’s Office of Refugees to create an interpreter training program.⁵³

In carrying out these functions, all courts should work with a local Language Access Oversight Committee (*See* Part VI below).

Translated Documents

The proper translation of state court materials, notices, and forms is also essential to bridging the language divide between the California court system and the LEP populations it serves. All vital documents must be translated for any language spoken by 5% or 500 persons,

⁵⁰Perez, *supra* note 19.

⁵¹*Id.*

⁵² See Office of Language Access, Colorado Judicial Department, *Strategic Plan for Implementing Enhanced Language Access in the Colorado state courts: Blueprint for providing Full access to Justice for Colorado’s Limited English Proficient Court Users* (Colorado LAP) (March 2012), at 5; Wisconsin Director of State Courts Language Access Plan (Wisconsin LAP)(rev. version 11/25/2013), at 7-8, available at: <http://www.wicourts.gov/services/interpreter/docs/laplan.pdf>.

⁵³ Wisconsin LAP at 7.

whichever is less, of the population in the service area of each courthouse. These thresholds for written translations should be established to meet the needs of the extraordinarily diverse populations within California.

Tiered Approach to Language Services

We believe that for certain activities outside the courtroom, courts can and should utilize non-certified interpreters with different tiers of qualifications to meet the needs of litigants. The American Bar Association Standards for Language Access in Courts (ABA Standards) recognize the acceptability of a tiered approach to interpretation and bilingual staffing.⁵⁴ This has been recommended for the California Courts in past reports as well.⁵⁵ As noted in the ABA Standards, some positions may not require the highest level of certification that is needed in a courtroom because simultaneous interpretation and an understanding of complex terminology may not be necessary at those points of contact.⁵⁶ The ABA Standards do, however, recommend that courts assess and identify the language proficiency needed at various points of contact.⁵⁷ They also recommend testing of all bilingual staff and identify the “Interagency Language Roundtable (ILR)” tool, which we cite to, as a best practice.⁵⁸ Alternatively, they list two testing agencies that are commonly used: Alta Language Services and Language Testing International.⁵⁹ The Migration Policy Institute, referenced above in Part II, also has a Language Access: Translation and Interpretation Policies and Practices project that offers some useful resources.⁶⁰ As noted below, courts should work with their local Language Access Oversight Committee, including a variety of stakeholders, to identify the language needs and skills necessary at the various points of contact in the local court (*See* Part VII below).

Hiring of Bilingual Staff

The recruiting and retention of bilingual staff is critical in providing improved language access to LEP court users. This was highlighted in the Findings and Recommendations of the 2008 study of interpreter services in civil cases in California.⁶¹ Bilingual ability should be a *sine qua non* of all future court hiring of all positions involving public contact — these positions should require proficiency in languages commensurate with the needs of local communities. If the Judicial Council believes such an absolute mandate on bilingual hiring is not possible, then

⁵⁴ American Bar Association Standing Committee on Legal Aid and Indigent Defendants, *ABA Standards for Language Access in Courts* (February 2012) (ABA Standards), at 100-2, available at: http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/language_access.html.

⁵⁵ See National Center for State Courts, Research Services, *The Provision of Court Interpreter Services in Civil Cases in California: An Exploratory Study, Final Report* (January 31, 2008), at 6-7, available at: <http://www.courts.ca.gov/documents/ncsc-report.pdf>.

⁵⁶ American Bar Association, *supra* note 54, at 100.

⁵⁷ *Id.* at 101-2.

⁵⁸ *Id.* at 101. The Interagency Language Roundtable (ILR) is a Federal interagency organization that works on addressing language access, language testing, interpretation and translation performance, and other language-related activities. The ILR website is available at: <http://www.govtilr.org/index.htm>.

⁵⁹ *Id.* at 102, footnote 49.

⁶⁰ <http://www.migrationpolicy.org/programs/language-access-translation-and-interpretation-policies-and-practices>.

⁶¹ See National Center for State Courts, Research Services, *The Provision of Court Interpreter Services in Civil Cases in California: An Exploratory Study, Final Report* (January 31, 2008), at 4, available at: <http://www.courts.ca.gov/documents/ncsc-report.pdf>.

we recommend the approach Delaware has adopted. First, Delaware identifies positions where bilingual capacity is required and will list that as a mandatory requirement of the job. In other positions, there is a hiring preference for bilingual staff.⁶² Local courts should work with the stakeholders and committees recommended in Part VI of these comments to identify where language capacity is essential and for what languages.

Assessment, Transfer, and Training of Existing Qualified Bilingual Court Staff

Until sufficient staff can be hired, all courts should do an assessment of the language capacity already available in the courthouse, especially in Spanish. While California is a very diverse state, we know that the majority of LEP individuals are Spanish speakers. We believe courts may already have Spanish or other language capacity that is not being utilized to the fullest. For instance, we have observed criminal courtrooms where staff, such as bailiffs and judicial assistants, speak Spanish. These same courtrooms have Spanish-speaking interpreters assigned to them and available to assist with introductory remarks and other preliminary communication. Down the hall, however, restraining order and unlawful detainer courtrooms have no staff who can communicate with Spanish speakers and other LEP individuals.

Courts should survey, test, and identify bilingual staff and transfer them to civil courts, clerk's offices, and other public contact locations to increase language access immediately. The assessment of language ability should be standardized, thorough, and extensive. Some resources for testing as recommended by the ABA Standards are noted above in this section. Different levels of oral and written ability should be tested and tiered with pay differentials. The court may also want to explore encouraging current court staff to improve and develop language skills by offering language classes and other incentives for professional growth. Staff should be placed strategically and utilization of language skills should be part of their job duties and expectations. Bilingual staff should be designated on court-wide phone lists to assist court users as needed. Standardized resources, including glossaries and training curriculum to be administered on a regularly basis, should be developed and updated.

Utilizing Technology and Translated Materials for Introductory Remarks and General Information

Courts should utilize technology to provide assistance with introductory remarks and court instructions in the courtroom and the hallway. The simplest approach might be to translate instructions into other languages and provide them to all litigants. However, many litigants may not be literate in their native language, so courts should also use other technology. Headsets can be used in courtrooms without disrupting proceedings. Video remote or videos can also be used with or without headsets for interpretation. By utilizing various applications, courts could provide or play pre-recorded messages on a variety of devices.

⁶² State of Delaware Administrative Office of the Court, Court Interpreter Office, *Language Access Plan* (Delaware LAP) (August 2013), at 9, available at: <http://courts.delaware.gov/forms/download.aspx?id=64928>.

Language Posters and Cards in Courtrooms

All filing rooms, courtrooms, and other public areas should have the means to identify less easily recognized languages. To identify such languages, these areas should have language line posters and brochures available that allow a person to point to their language when court staff cannot identify the language. Various language line services provide their customers with posters and brochures that list a variety of languages. For instance, LanguageLine Solutions' (LLS) poster has a tag line that says a free interpreter will be provided in the 20 most common languages. In addition, LLS provides a brochure that has over a hundred languages listed. LEP individuals can simply point to the line that reflects their language. Court personnel will then know the language as it is listed in English next to the tag line. All courtrooms should post and have available such tools at the judicial assistant's desk.

To increase language access beyond the courtroom, we recommend the following be incorporated into the LAP.

PROPOSED LAP LANGUAGE: Relevant parts of the LAP Outline include Section V, Parts A, B; Section VI, Parts A, B, C, E; Section VII, Parts A, B, C.

The Court shall adopt a tiered language services system based on the knowledge, skills, and abilities needed at each point of contact, as follows:

Court and Ancillary Court Proceedings

(See Appendix Below for Interpreter Qualification Levels)

1. A certified or registered court interpreter must be provided for all courtroom proceedings *and* activities that are ancillary to courtroom proceedings but nevertheless mandatory for litigants. This includes, but is not limited to, trials, mandated mediation, settlement conferences, and parental interpretation in juvenile matters.
2. If a certified or registered interpreter cannot be obtained within a reasonable amount of time, then the court may contract with a qualified non-certified/registered interpreter. The minimum qualification level should be at least Level 3 plus on the Interagency Language Roundtable Skill Level descriptions for Interpretation Performance. *See* <http://www.govtilr.org/>.
3. If none of the interpreters above can be obtained, Video Remote Interpreting (VRI) may be utilized in specific circumstances only. VRI must be used in accordance with a well-designed protocol, similar to the limitations prescribed in <http://courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf>. VRI must be limited to non-trial or evidence-gathering settings.
4. Where a live interpreter is unavailable, courts must provide language assistance with introductory remarks, court instructions, and pre and post-proceeding instructions through translated written materials and/or utilizing available technology
 - a. Through the local Language Access Oversight Committees, local courts should meet with stakeholders, including legal services providers, self-help staff, and

others to develop a plan to provide such services and identify appropriate ways to use technology (*See* Part VI below).

Interpreters Outside the Courtroom

1. Outside of the courtroom, the court will provide certified or *qualified* uncertified interpreters at all points of contact with LEP litigants. Unlike translations of written documents, oral interpretation services should not be subject to any thresholds for when they should be offered but be available “on demand” and free of charge.
2. The court must utilize the Department of Justice’s hierarchy of language services⁶³ to provide interpretive services outside the courtroom setting. In accordance with this hierarchy:
 - a. The first choice is always to use bilingual staff to provide services directly in the preferred language.
 - b. If bilingual staff is unavailable at a particular location, court staff from another location should be brought in to assist as a second choice.
 - c. While the court must strive to provide in person interpretation, the third choice is to use VRI to draw on interpreters from other courts.
 - d. If all the options above are exhausted, the fourth choice is to use a *qualified* volunteer.
 - e. Finally, if all other options are unavailable, telephonic or language line service may be used as the last resort.
3. Qualified bilingual staff will be located at all filing windows and self-help centers. Additionally, in each of the civil courtrooms either or both the bailiff and clerk should be bilingual whenever possible.
4. The use of friends or relatives as interpreters should be highly discouraged, and minors should never be used.
5. The minimum level of qualification for interpretation outside of courtroom proceedings should be at least Level 3 on the Interagency Language Roundtable Skill Level descriptions for Interpretation Performance. *See* <http://www.govtirl.org/>. A Level 3 interpreter is able to interpret consistently in the mode required by the setting, provide renditions of informal as well as some colloquial and formal speech with adequate accuracy, and normally meet unpredictable complications successfully. Be able to convey many nuances, cultural allusions, and idioms, though expression may not always reflect target language conventions. Adequately deliver with pleasant voice quality. Hesitations, repetitions or corrections may be noticeable but do not hinder successful communication of the message. Performance reflects high standards of professional conduct and ethics.

⁶³ For sample LAP Plans that use the Department of Justice’s hierarchy, available at: <http://iri.lsc.gov/engaging-clients/language-access/planning-evaluation/sample-plans>.

Placement of Bilingual Staff

Moving forward, the court should only hire staff that is bilingual in positions requiring public contact commensurate with the needs of local communities. This should dramatically increase capacity for interpretation while reducing the need to rely on costly interpretation services by non-court personnel. Additionally, bilingual staff should be prioritized in civil proceedings and pulled from the criminal courts if necessary. In criminal court bilingual staff is less essential as all individuals are represented by counsel and provided with interpreters.

Assessment and Training of Bilingual Staff

1. All bilingual staff must be tested through a standardized process before being instructed to utilize their language skills with court users. Such testing should include various levels designating oral and written proficiency. Staff shall be compensated accordingly with corresponding pay differentials. Utilization of language skills shall be made part of all job duties for staff with public contact.
2. Qualified bilingual staff shall be designated on the court-wide phone list to be called upon to assist in appropriate situations. Guidelines and protocols shall be developed and trainings provided to all staff.
3. All bilingual staff shall be required to attend regular trainings regarding how to appropriately utilize their language skills with court users. The Office of Language Access shall develop standardized training curriculum and language resources, such as glossaries and other language-specific resources (*See* Part VI below).

How to Determine when Language Services Are Needed

1. The court shall be responsible for identifying the need for language services. At the point of contact, the court employee shall notify the court user of their right to an interpreter. If a court user speaks a language other than English, the court will use a language identification card to determine the litigant's primary language and particular dialect, and any other languages she/he may speak fluently. If the court is not able to determine the client's primary language, the court will use a telephonic interpreter service to identify the litigant's language.
2. In each filing window and courtroom the court must put up "I Speak" posters.⁶⁴ This will give court staff the ability to easily identify the LEP individual's language. In addition, at each location brochures explaining language services, which list dozens of other languages, must be available allowing the LEP to point to their language to identify it for

⁶⁴ Samples of these posters available at: <http://www.dhs.gov/xlibrary/assets/crcl/crcl-i-speak-poster.pdf>, or <http://www.lep.gov/ISpeakCards2004.pdf>, <http://www.courts.alaska.gov/language/poster-flags.pdf>.

the court staff.

3. The court should have “I Speak” cards readily available for LEP litigants to pick up at the clerk’s office.⁶⁵ Handing them out to litigants will ensure that no matter where in the courthouse a litigant is, s/he will be able to let court staff know the language the litigant speaks.

Centralized Quality Control

Certified court interpreters must be able to provide simultaneous interpretation. Staff and court volunteers should be qualified to provide consecutive translation at a minimum. The Federal Court Interpreter manual provides detailed guidelines on certification and qualifications for interpreters.⁶⁶ Quality control for all California courts should lie within the Office of Language Access, discussed below. This will ensure the same standard is being applied across all California courts. Along the same lines, a centralized resources and training curriculum should be developed and maintained. Attached are a number sample word banks and glossaries for reference.

Translation and Signage

The court must prioritize the translation of all signs that let LEP litigants know that they have a right to an interpreter.

Multilingual Court Information and Signage

Notification of Court-Provided Language Services

1. Courts must provide visible signage indicating the litigant’s right to language services.⁶⁷ The following website <http://www.masslegalservices.org/content/your-right-interpreter-poster-editable-version>, allows for the creation of a customized sign. This should be placed in all public areas and in each courtroom
2. Courts must post signs throughout the court that indicate “the court serves all people. It does not matter where you were born or what language you speak.”
3. For each notice the court sends out to litigants, the court must include language that indicates the court’s obligation to provide free interpretation services. The notice should also include the LEP coordinator’s number as well as the LEP specific call-in numbers (described below).

⁶⁵ A sample of these can be found at: <http://www.dss.cahwnet.gov/civilrights/PG584.htm> or <http://www.cultureconnectinc.org/ispeak.html>.

⁶⁶ See <http://www.uscourts.gov/uscourts/FederalCourts/Interpreter/federal-court-interpreter-orientation-manual.pdf> and <http://lri.lsc.gov/engaging-clients/language-access/language-assistance/oral/staff-language-skill>.

⁶⁷ See <http://www.masslegalservices.org/content/your-right-interpreter-poster-editable-version>, which allows for the creation of a customized sign.

Dissemination of Multilingual Courtroom Instructions

Many courtrooms have standard instructions they provide litigants daily at the initiation of proceedings. It is critical for LEP litigants to understand these instructions to be able to proceed with their cases. For these sorts of courtroom instructions, the court should pre-record the instructions in multiple LEP languages, starting with those in highest demand, and make the interpreted instructions available either through the use of headsets or kiosks.

Multilingual signage providing direction to LEP court users to courtrooms, programs, and services

Multilingual posting signs should be provided in intake areas and other entry points providing direction to LEP persons to courtrooms, programs, and services.

Multilingual court information phone numbers

The court should identify the languages in the highest demand locally and set up specialized numbers that a litigant can call to get information, such as their trial date or case status, other than the general court numbers. This will increase LEP access and reduce the time staff spends identifying the language. This will also allow for early identification of language needs.

Translation of Documents

The court should at the very least translate all vital documents for each LEP language group that comprises at least 5% or 500, whichever is less, of persons eligible for or likely to be directly affected by the court's services. A sample translation process manual can be found at <http://www.kingcounty.gov/operations/policies/executive/itao/inf142aao.aspx>.

A document should be considered vital and need to be translated if it contains information critical for obtaining access to court or it is required by law. Some examples of vital documents that courts may need to translate to ensure that LEP individuals are provided meaningful access can include applications, court forms, consent or complaint forms, notices of rights, and letters or notices that require a response.⁶⁸ In translating forms, translated text should be written alongside the original English text, thus facilitating litigants understanding and completing forms in English. The statewide Language Access Oversight Committee in conjunction with the local Language Access Oversight Committees should identify and prioritize translation.

Vital documents for the court must include fee waiver and supplemental fee waiver forms and hearing notices. For all other languages, the court must make sight translation available.⁶⁹ Court forms in areas of law that have a high number of pro per litigants, such as family law and

⁶⁸ U.S. Department of Justice, *Language Access Planning and Technical Assistance Tools for Courts*, February 2014, available at: http://www.lep.gov/resources/courts/022814_Planning_Tool/February_2014_Language_Access_Planning_and_Technical_Assistance_Tool_for_Courts_508_Version.pdf.

⁶⁹ Dymally-Alatorre Act, Gov. Code §§ 7290, 7294.5, and 7295.

unlawful detainees, should also be translated as a priority. Any material explaining services available, such as self-help services, must be translated into any non-English language spoken by 5% or 500 persons, whichever is less, in the service area of the specific courthouse. The court should also accept for filing all pleadings completed in non-English languages.

With the balance of interests at play in the current definition of “vital documents” and to this end, the inclusion of in-language “taglines” in at least 15 languages should be utilized for some documents and notices. Taglines are a low-cost way to inform litigants of the availability of language services.

Work with Local Language Access Oversight Committees

In carrying out all these functions local courts should work with a local language access oversight committee comprised of stakeholders including legal service providers, community-based organizations and representatives of local ethnic communities (*See Part VI below*).

APPENDIX – Interpreter Qualifications

1. Certified Court Interpreters – Interpreters that have successfully passed the Bilingual Court Interpreter Certification Exam or the exam for American Sign Language and have met all requirements as prescribed the Judicial Council and Administrative Office of Courts. Court interpreter certification exams are administered: American Sign Language, Arabic, Eastern Armenian, Cantonese, Khmer, Korean, Mandarin, Portuguese, Punjabi, Russian, Spanish, Tagalog, and Vietnamese.
2. Registered and non-certified qualified interpreters – Interpreters in languages spoken for which there is no state-certifying exam, or have not passed the Bilingual Court Interpreter Certification Exam. These interpreters have passed the Written Exam and Oral Proficiency Exams in both English and their non-English language and have demonstrated the ability to interpret at a Level 3 plus interpreter performance level on the Interagency Language Roundtable Skill Level descriptions for Interpretation Performance. See <http://www.govtilr.org/>. And have successfully passed an exam on interpreter ethics.

Level 3+ (Professional Performance Plus): Able to interpret accurately and consistently in the mode (simultaneous, consecutive, and sight) required by the setting and provide generally accurate renditions of complex, colloquial and formal speech, conveying most but not all details and nuances. Expression will generally reflect target language conventions. Demonstrates competence in the skills required for interpretation, including command of both working languages, their cultural context, and terminology in those specialized fields in which the interpreter has developed expertise. Good delivery, with pleasant voice quality, and few hesitations, repetitions, or corrections. Performance reflects high standards of professional conduct and ethics.

<http://www.govtilr.org/Skills/interpretationSLDsapproved.htm>

3. Lesser skilled interpreters – Interpreters that demonstrate the ability to interpret at the Level 3 performance level on the Interagency Language Roundtable.

Level 3 (Professional Performance): Able to interpret consistently in the mode (simultaneous, consecutive, and sight) required by the setting, provide renditions of informal as well as some colloquial and formal speech with adequate accuracy, and normally meet unpredictable complications successfully. Can convey many nuances, cultural allusions, and idioms, though expression may not always reflect target language conventions. Adequate delivery, with pleasant voice quality. Hesitations, repetitions or corrections may be noticeable but do not hinder successful communication of the message. Can handle some specialized subject matter with preparation. Performance reflects high standards of professional conduct and ethics.

<http://www.govtilr.org/Skills/interpretationSLDsapproved.htm>

4. Bilingual – Language skilled individuals that do not meet the interpreter performance requirements of a Level 3 interpreter on the Interagency Language Roundtable.

V. **Training of Court Staff** [Section IX of LAP Outline]

To ensure statewide compliance with the legal requirements, the language access plan must do more than lay out the law and requirements that govern language access; the plan must also establish the programs and guidelines to be used for the training of court staff on language access services, requirements, and mandates in order to ensure the delivery of high-quality and timely language services to LEP litigants. Oftentimes, judges, clerks, court administrators, staff, and other court-appointed professionals want to help the LEP litigant that comes to their courthouse, but they do not have the proper tools or knowledge. At the 2012 National Center for State Court Summit (NCSC) on Language Access in the Courts, “Training Judges, Clerks, and Interpreters” was chosen the most often as a priority area by the various judicial leaders present at the summit from across the nation.⁷⁰

Ongoing training on language access ensures that court staff receives the support they need to properly serve LEP litigants while also identifying areas where additional education or guidance is necessary. In its March “Access Brief,” the Center on Court Access to Justice for All reinforced the importance of training court staff about language access services, noting that “judges and court staff need education about, for example, identifying individuals in need of language access services, appropriately assisting LEP self-represented litigants with their cases, and cultural differences that may affect an LEP self-represented litigant’s understanding and behavior.”⁷¹ We also anticipate that technology will be a means of providing language services, whether it is through the use of headsets, audio recording, or video remote interpreting. Education on the use of this technology is critical to ensuring its effective use, particularly for court staff that has little to no experience with these tools.

Furthermore, training on cultural sensitivity and norms will better prepare court staff for the expected culture change that will result as language access becomes routine. The burden of acquiring language services should not fall on the LEP litigant. Instead, court staff should be proactive about identifying the needs of LEP litigants and providing the necessary services. To ensure that this happens, training should encourage court staff to actively approach LEP litigants who may feel intimidated by the court process or unaware of the options to seek language services. Any training should emphasize customer service and the importance of being cordial and patient with LEP litigants.

Below are topic areas that the training and education efforts should include, although it is not an exhaustive list:

- Background on language access issues, including review of legal requirements, mandates and policies (identified above);
- Review of California’s language access plan;

⁷⁰ See National Center for State Courts, *A National Call to Action: Access to Justice for Limited English Proficient Litigants, Creating Solutions to Language Barriers in State Courts*, (2012), at 16, available at: http://www.ncsc.org/services-and-experts/areas-of-expertise/language-access/~/_media/files/pdf/services%20and%20experts/areas%20of%20expertise/language%20access/call-to-action.ashx.

⁷¹ See Center on Court Access to Justice for All, *Access Brief 5: Language Access & Self-Represented Litigants*, available at: <http://ncsc.contentdm.oclc.org/cdm/ref/collection/accessfair/id/339>.

- Processes for identifying LEP court users;
- The various services that are available to LEP litigants, including technological assistance (interpreters, bilingual staff, translated materials, websites, video remote interpreting, headphones);
- Processes for the appointment of interpreters;
- Review of the role of interpreters;
- Review of interpreter code of ethics;
- Legal services and community-based organizations that court staff can refer to for more information on how to serve LEP individuals;
- Cultural competency and awareness trainings on working with specific populations;
- Training on how to effectively work with interpreters for all staff;
- For non-certified bilingual court staff, training on how to effectively work as an interpreter

In addition to highlighting the importance of providing training to court staff, the language access plan must also establish the standards by which courts will have to comply with to ensure that staff is being adequately and consistently trained. This includes that there be mandatory trainings provided on a regular basis to court staff and a requirement that courts report the number of trainings their staff attended, who led the trainings, and the materials that were reviewed at such trainings. Such oversight will not only ensure that court staff is complying with the requirements of the language access plan, but also that court staff is receiving all the support that it needs in providing language services.

VI. Language Access Management

A. Creation of an Office of Language Access (OLA)

The Judicial Council should create an Office of Language Access (OLA) to ensure implementation of the LAP. The process of making language access a reality will take time and will certainly be a challenge. Without an office at the state level with power to enforce the plan sufficient progress may not happen. The OLA would expand, complement, and integrate with the existing work and functions of the Court Interpreters Program and Court Interpreters Advisory Panel. The OLA should also have significant input from community stakeholders. Some OLA functions can include identifying language needs, providing technical assistance in assigning and calendaring interpreters for court proceedings, coordinating translations of court forms and other “vital” documents, providing trainings, developing training curriculum, methods and standards for VRI and other technology, and monitoring progress and funding needs. It could also help coordinate expanded testing, certification and scheduling of different tiers of interpreters, court staff and independent contractors.

Further, the LAP will require extensive training for all court staff and court-appointed professionals. Training topics include implementation of the new plan, how to be an effective interpreter, how to work with an interpreter, and cultural competency. Cultural differences and how they might impact such interactions may need to be explored for various ethnic groups. As a statewide centralized office, the OLA could develop training curriculum and make materials available throughout the state. This would prevent each court from having to develop such trainings independently.

It is also worth noting that other state courts have developed similar entities to assist with these functions. For example, Colorado has a centralized coordinating office that oversees language access services.⁷² In addition, they rely on a language access committee to provide feedback and guidance to the office.

B. Language Access Oversight Committee (LAOC)

The Judicial Council should also create a new statewide Language Access Oversight Committee (LAOC), which would provide critical support to the OLA. It would include legal service providers and others with experience in court services and civil rights. The current working group has very limited representation from the legal services community. The legal services community has extensive experience representing clients in court and assisting indigent litigants in court-based self-help centers. In addition, these same organizations have attorneys with substantial experience in civil rights law, especially in the area of language access. The LAOC must be expanded to include more individuals with such experience. As mentioned above, Colorado and Wisconsin have used these types of diverse committees to provide input on their language access efforts. Colorado’s committee includes judges, court personnel, and external

⁷² Office of Language Access, Colorado Judicial Department, *Strategic Plan for Implementing Enhanced Language Access in the Colorado State Courts: Blueprint for providing Full access to Justice for Colorado’s Limited English Proficient Court Users* (Colorado LAP) (March 2012), at 5.

stakeholders.⁷³ Wisconsin notes that their “Committee to Improve Court Interpreting” also included members of the “Hispanic, Hmong, and Deaf and hard of hearing communities.”⁷⁴ This type of approach—including impacted communities on committees—is critical to success and community buy-in.

In addition, the committee should be used to monitor and ensure compliance with the new plan. We recommend quarterly meetings for the first two years, then annual hearings to discuss successes and failures, annual reports to highlight progress and offer recommendations, assignment of monitors to observe compliance in the courts, and implementation of a questionnaire or survey to LEP litigants for direct feedback. There should also be extensive data collection to provide quantitative analysis of the effectiveness of the plan.

C. Creation of Local Language Access Oversight Committees

Local courts should also set up their own oversight committees to develop and implement language services consisting of court staff, self-help center staff, interpreters, and community stakeholders including legal services providers, and other organizations working with various ethnic communities. This committee could help local courts adapt the AOC’s Language Access Plan to the needs of their specific counties. The tasks of such a committee would include identifying local language needs and emerging languages, identifying critical points of contact and the level of language proficiency needed at each point, providing feedback on the plan implementation and creating a bridge to various ethnic communities. The activities of such local LAP committees would mirror the statewide committee but with a local county focus.

PROPOSED LAP LANGUAGE: Relevant parts of the LAP draft outline include Section XI, Parts A, B, E.

1. The Judicial Council shall create a new statewide Office of Language Access (OLA) and provide adequate staff responsible for ensuring that local courts and the state meet the requirements of civil rights laws with regards to language access for LEP individuals and that LEP individuals receive high quality service and equal access in all programs and services throughout the state.
 - a. The OLA would expand, complement, and integrate with the existing work and functions of the Court Interpreters Program and Court Interpreters Advisory Panel.
 - b. The duties of the State OLA shall include, but are not limited, to:
 - i. Implementation of the Judicial Council’s adopted statewide Language Access Plan
 - ii. Monitoring local courts and their services to LEP individuals
 1. Annually reviewing LEP services and publishing a report (working with the Language Access Oversight Committee)
 2. Handling and resolving complaints regarding language access

⁷³ *Id.*

⁷⁴ Wisconsin Director of State Courts, *Language Access Plan* (Wisconsin LAP)(rev. version 11/25/2013), at 7, available at: <http://www.wicourts.gov/services/interpreter/docs/laplan.pdf>.

- iii. Providing technical assistance and training to all court personnel on language access
- iv. Coordinating the provision of interpreter services throughout the state, including:
 1. Testing & certification
 2. Scheduling
 3. Coordinating use of technology, including video remote services
- v. Ensuring the adequacy of bilingual court staff and volunteers
- vi. Working with stakeholders, including legal services providers, to identify the language needs of public contact positions
- vii. Testing and certification of the bilingual capacity of employees by:
 1. Developing tools
 2. Contracting with certification agencies such as those recommended in the ABA Standards⁷⁵
- viii. Working with stakeholders, including legal services providers, to identify “vital” documents and ensuring translation of all such documents as expeditiously as possible
 1. Coordinating and providing translations of other documents
- ix. Explore funding opportunities for language access

2. Language Access Oversight Committee (LAOC)

- a. The committee shall meet at least quarterly and more often as needed to ensure implementation of the language access plan.
- b. The committee shall include a substantial number of legal services providers from throughout the state.
- c. The committee shall conduct public hearings throughout the state a year after implementation begins to assess the ongoing needs and as often thereafter as deemed necessary by the committee.
- d. After such hearings, the committee shall annually update the plan and identify areas of need or improvement and publish a report with recommendations.
- e. The committee shall work with the Court Interpreters Program and Court Interpreters Advisory Panel to enhance data collection and reporting to assess the effectiveness of the statewide Language Access Plan.

3. Local Language Access Oversight Committees

- a. Local courts must also set up committees to help plan and monitor language access implementation.

⁷⁵ American Bar Association, *supra* note 54, at 100-2.

- i. Tasks include identifying local language needs and emerging languages, identifying critical points of contact and the level of language proficiency needed at each point, providing feedback on the plan implementation and creating a bridge to various ethnic communities.
 - ii. Activities will mirror the statewide committee but with a local county focus.
- b. The committee should include court personnel including interpreters, legal services providers, self-help center staff, and other community-based organizations that serve LEP individuals.

VII. Monitoring: Complaint Processes

In addition to the committees and proposed structure noted above, the AOC should consider a variety of mechanisms used by other states to monitor compliance. Colorado has adopted several interesting features: an interpreter discipline policy⁷⁶, a complaint process⁷⁷, an “audit unit” that monitors compliance, and “managing interpreters”⁷⁸, which appear to be similar to language access coordinators. Washington State has adopted a very thorough process for handling complaints against interpreters. Ohio has posted a one page outline of its complaint process for denial of language access and a complaint form in 13 languages on its website.⁷⁹

A consistent, transparent, and efficient statewide complaint mechanism will provide individual litigants with the means to ensure language-sensitive services in their matters. Moreover, transparency, through publication of results, will help clarify standards for interpreters, translators, and the courts. Such mechanisms should also be time and cost-efficient to ensure rapid resolution of language barriers in the court in a way that allows litigants to promptly resume court matters while not administratively or financially overburdening the courts. Overall, this should lead LEP litigants to expect and receive consistent language access services across all California courthouses, regardless of location or type of case.

Both users and providers of language access services in the courts should expect predictable, transparent, and prompt resolution of language access problems. Language access services should be included as part of court employee duties and should be written into employee manuals. Failure to provide proper services should be reviewed in a complaint process, and adverse decisions should lead to verbal or written warnings, and ultimately cause for misconduct.

The Judicial Council should appoint at least one Language Access Coordinator in each court, as done in Colorado, to work with the OLA to maximize efficiency and fully utilize available interpreters. Language Access Coordinators should have the power to make assignments and transfers as needed, and determine the roster of interpreters in a given court. This is analogous to the court’s current treatment of ADA services, which are no less mandated than language access services. Language Access Coordinators should manage and oversee interpreter services, particularly compliance with standards of interpretation and fulfillment of training, certification requirements, and maintenance of a roster of interpreters for the courthouse. Language Access Coordinators should also keep a log of complaints and decisions and cooperate with the OLA in investigating complaints. The Language Access Coordinator must have the authority to order corrective action that must be followed when finding a violation of language access rights under the Language Access Plan.

⁷⁶Office of Language Access, Colorado Judicial Department, *supra* note 52, at 8.

⁷⁷*Id.* at 9.

⁷⁸*Id.* at 14.

⁷⁹ Ohio’s complaint forms, available at:

<http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/compliance/forms/default.asp> and resolution process, available at: <http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/compliance/Process.pdf>.

The Complaint Process

Local courts should handle all complaints relating to language access in the courts with an appeal to the AOC. If a party wants to complain about local court-wide practices or policies then original jurisdiction would lie with the state level OLA. The AOC should create parallel complaint processes: one for complaints about the quality of interpreters and another about the denial of language services. These processes should be implemented uniformly statewide. The state should create a simple, easy to use form (translated into multiple languages) that can be used by all courts to track and handle complaints in their court. Each local court's LAOC should accept, investigate and resolve all such complaints.

Litigants, lawyers, mediators, court staff, and judges should be allowed to file complaints. The Judicial Council and local courts should provide forms both in paper and online. The complainants should be able to specify information such as the case number, courtroom, the parties involved, and when they experienced the problem.

Complaints Regarding Quality of Interpretation or Translation

For complaints filed against interpreters or translators for inadequate services, the OLA should then review the written complaint, personally interview the interpreter/translator and/or the complainant, then consult with the Language Access Coordinator. Any interview with the complainant will include court-provided interpretation, and can be either in person or via phone, at the complainant's request. Following investigation the OLA should issue a written decision of (1) No offense, (2) Inadequate/unprofessional service, (3) Grossly inadequate/unprofessional, or repeat offense of (2), or (4) Repeat offense of (3). The decision should be issued within 14 days of the filing of the complaint. The decision should indicate the finding, remedies for the complainant, and punishment imposed on the interpreter, if applicable. The decision should be translated into the complainant's language and mailed to the litigant; complainants should receive the decision within 21 days of filing the complaint. Appeal should be available if filed within 14 days. The AOC will handle the appeals of OLA decisions in a hearing that complainant may attend. Complainant has a right to a court-provided interpreter in these hearings.

Remedies should include replacing the interpreter or translator for the matter concerned. The interpreter/translator should be replaced regardless of the outcome of the investigation, unless no other interpreter/translator is available in the complainant's language. If the OLA finds that the interpreter/translator offered inadequate services, he should warn the interpreter/translator. If the OLA finds that the interpreter/translator provided grossly inadequate services, or has been found to provide inadequate services for a second time, he should order the Language Access Coordinator to temporarily remove the interpreter/translator's name from the court roster until the interpreter/translator completes a re-training program or otherwise demonstrates cure. If an interpreter/translator is found to have again provided grossly inadequate services, or is found a third time to have provided inadequate services, the OLA should order permanent removal of the interpreter/translator from the court roster.

If a complainant is not satisfied with the results of the investigation, they should be advised of their right to appeal the finding to the AOC for investigation and also other civil rights

enforcement tools, such as the right to file a discrimination complaint with the U.S. Department of Justice.

Washington State has a very thorough process for handling these types of complaints which can serve as a model. Complaints are handled by the Washington Court Interpreter Commission,⁸⁰ which investigates and disposes of the complaints,⁸¹ and can impose a range of sanctions on interpreters from an advisory letter to termination.⁸²

Complaints Regarding Denied or Untimely Provision of Language Access Services

The AOC should create a separate complaint process to enforce adequate provision of language access needs in the courts. The process to file the complaint should mirror the one described above.

The Office of Language Access in a given court should then interview both the court person responsible for providing service and/or the complainant. Any interview with the complainant will include court-provided interpretation, and can be either in person or via phone, at the complainant's request. Following the interview, the OLA should issue a written decision of (1) No offense, (2) Inadequate and/or discriminatory service, (3) Grossly inadequate/discriminatory, or repeat offense of (2), or (4) Repeat offense of (3). The decision should be issued within 14 days of the filing of the complaint. The decision should indicate the finding, remedies for the complainant, and punishment imposed on the court person, if applicable, and a corrective action plan. The decision should be translated into the complainant's language. Appeal should be available if filed within 14 days. The AOC will adjudicate the appeals of OLA decisions.

Remedies should include immediate provision or repetition of service and should be applied regardless of the decision of the OLA. If the OLA finds inadequate or discriminatory provision of services, the court person will be issued a warning. If gross inadequacy or discriminatory service or a second finding of inadequate or discriminatory service applies, the person will receive a written reprimand and must attend language access training. If a second finding of gross inadequacy/discrimination or a third finding of inadequacy/ discrimination applies, the court will have grounds for terminating that employee for misconduct.

If a complainant is not satisfied with the results of the investigation, they should be advised of their right to appeal the finding to the AOC for investigation and also other civil rights enforcement tools, such as the right to file a discrimination complaint with the U.S. Department of Justice.

⁸⁰ *Washington Court Interpreter Disciplinary Process*, Washington Court Interpreter Commission, May 2012, available at:

http://www.courts.wa.gov/programs_orgs/pos_interpret/content/pdf/InterpDiscRules%20Final%20Aprvd%20May%202012.pdf.

⁸¹ *Id.* at 7-8.

⁸² *Id.* at 17-8 (an advisory letter is not a "sanction"); 25-9.

Complaints Against Courts for Systemic Denial of Language Access

The AOC should also allow for complaints against a court's systemic failure to provide language access services. The AOC's Statewide OLA should review, investigate, and adjudicate such complaints. We recommend a public hearing be held within 30 days of the filing of the complaint, and interpreters should be provided for complainants. Complainants must show a policy or practice of denying language access services. Following the hearing, the Administrative Director should issue a written decision ruling (1) No offense, (2) Systemic violation of language access plan provisions, (3) Repeated systemic violation of language access provisions. The decision should be issued within 14 days of the filing of the complaint. The decision should indicate the finding, remedies, and punishment imposed on the OLA, if applicable, and a corrective action plan. The decision will be translated in the complainant's language and mailed to the complainant within 7 days of the decision.

If a violation or gross violation is found, remedies should include immediate provision or repetition of service. An OLA found to have violated the language access plan should be required to attend training, and the AOC should appoint an independent observer to monitor the court periodically for the next 180 days. A repeat violation should result in removal of the Language Access Coordinator from that position.

Appeals of AOC Decisions

A complainant should be advised in writing of any AOC decision. Complainants should also be given instructions of their rights generally to file other complaints of discrimination, such as with the U.S. Department of Justice.

Complaint Process Data and Information

The AOC should keep a written record of complaints filed, decisions, and appeals. Written decisions should be published on the AOC website for public view. All records should be reviewed quarterly for the first two years of the administration of the language plan, then annually to identify problems with implementation and corrective action.

PROPOSED LAP LANGUAGE: Relevant parts of the LAP draft outline include Section VIII, Parts A, B, C; Section XI, Parts A, B, C, D.

Language Access Services Complaints

LEP Court Users Notification on Right to Complain

1. Each court shall post visible notification to LEP on the right to file a complaint if they are denied languages accessible services, or receive inadequate interpretation and translation services.

(example - http://www.lep.gov/resources/012314_NC_lang.Acc.Poster.pdf)

Initiating a Complaint

1. Any person or entity, including litigants, mediators, court staff, and judges, may file a complaint with the Office of Language Access (OLA) for denial or inadequate language access services, including complaints against interpreters employed by the court, and/or certified or registered by the AOC.
2. To file a complaint, litigants may:
 - a. Contact the Office of Language Access at (xxx)xxx-xxxx;
 - b. Complete and submit the Language Access Services complaint form to the Language Access Coordinator or the OLA. Online complaints will be directly submitted to the OLA. Paper copies may be submitted directly to the Language Access Coordinator, or mailed to the OLA. The complaint form should specify complaints for:
 - i. Inadequate interpretation or translation
 - ii. Denial of language access services
3. Review of Complaint
 - a. Complaints Regarding Quality of Interpretation or Translation
 - i. The OLA will respond with 5 business days by letter or email acknowledging the receipt of the complaint.
 - ii. The OLA shall investigate the complaint and issue a decision within 14 days of the filing of the complaint.
 - iii. Notification to Complainant - Complainant shall receive the OLA's decision indicating the findings, remedies, and disciplinary action imposed on the interpreter or translator, translated into the complainant's language of preference within 21 days of filing a complaint.
 - iv. Appeal – Complainant may appeal the OLA's decision to the Administrative Director of the Courts within 14 days of receiving the OLA's decision in writing.
 - b. Complaints Regarding Denial of Language Accessible Services
 - i. The OLA will respond with 72 hours by email or telephone acknowledging receipt of the complaint, and determining if the litigant still requires language assistance.
 - ii. If the complainant requires language assistance, the OLA will contact the court Language Access Coordinator to coordinate appropriate language resources to address the language needs of the complainant, and instruct the complainant on who to contact and next steps
 - c. Systemic Denial of Language Access Services Complaints
 - i. Complaints against an OLA will be received by the AOC Administrative Director directly.
 - ii. Complainants must show a policy or practice of denying language access services.
 - iii. The Administrative Director shall investigate the complaint and issue a decision within 30 days of the filing of the complaint.
 - iv. Notification to Complainant - Complainant shall receive the decision

indicating the findings and remedies translated into the complainant's language of preference within 7 days of the decision.

4. Appeal of Administrative Director Decision

- a. A complainant should be advised in writing in any decision that if they are dissatisfied with a decision by the AOC Administrative Director, they have the right to file civil rights complaint of discrimination with other bodies, such as the U.S. Department of Justice.

5. Rights of Complainant

- a. To all rights specified in the Language Access Plan;
 - i. Remedies should include immediate provision or repetition of service and should be applied regardless of the decision of the OLA
- b. To be notified of the receipt of the complaint, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made;
- c. To speak with the person assigned to the complaint, by telephone or in person, about the substance of the complaint or its status;
- d. To submit additional supplemental written information or documentation;
- e. To written decisions of the complaint;
- f. To appeal with the Administrative Director;
- g. To file civil rights complaints with other bodies, such as the U.S. Department of Justice.

VIII. Technology Generally [Section V, Parts A4, B2; Section VI, Part D; various other parts in trainings of LAP Outline]

We recognize the importance of the use of technology in enhancing language access for LEP court users. We believe that any implementation around the use of technology, specifically Video Remote Interpreting (VRI), should be carefully explored and discussed with a wide range of stakeholders, including judicial officers, court staff, interpreters, legal services providers, community-based organizations, and court users themselves. Based on this research and exploration, there should be standards and protocols developed on the use of technology. For now, we offer some general comments on the use of VRI and other technology.

Video Remote Interpreting

As discussed in some of the sections above, we believe that VRI may be appropriate in certain settings and specific circumstances only where there is no live interpreter available. VRI must be used in accordance with a well-designed protocol, similar to the limitations prescribed in <http://courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf>. VRI must be limited to non-trial or evidence-gathering settings. Other than training court staff and others regarding the technology, there should be considerations regarding how to proceed in the event of a technology failure.

Use of Headsets and Video/Audio Recordings

This again is not meant to be a replacement for live interpreters, but use of headset technology could be very helpful and important in proceedings where multiple interpreters are unavailable. We often see scenarios where both parties are required to share one interpreter. In certain cases where there is sharing of an interpreter, the following physical configurations have deeply impacted and negatively affected our client and their ability to get proper protection from the process:

- Interpreter sits between client and abuser; so they are sitting very near each other; abuser has been able to glare/make threatening looks at client with physical presence;
- Abuser sits in front of interpreter, client sits behind interpreter; our client feels like her needs are placed last;
- Interpreter ends up sitting closer to abuser

The use of headsets would allow the interpreter to be more neutral and allow some of these physical configurations to be ameliorated. It may also allow for interpretation for individuals beyond the two main parties that may be important to the case, where their understanding of what is being said could be critical. Multiple headsets could be handed out to all those who require it.

As stated in Part III above, the use of headsets, with or without additional visual tools, could also help with the introduction and/or preface that the judge or other court staff give as general instructions to the court. We have many examples of bailiffs “shushing” and getting upset with interpreters who interpret the judge's general introduction of what to expect during the

proceedings. With the use of headset technology, the interpreter could be situated in a more private area and interpret to multiple people without disrupting the flow of the introduction or other comments. Accommodations would be required for those who are hearing impaired or have other disabilities, but this is an initial suggestion that would be cost-effective. Some of this type of information, as appropriate, could be pre-recorded in various languages to be played through headsets with video as well, if available.

California Court and Local Court Websites

The California courts and local court websites should explore ways to offer online services or video/audio recordings to LEP court users. The content can include instructions in various languages for filling out forms, self-help centers, filing instructions, directions, and procedures in other languages where court users can listen at home or through headphones at self-help centers or kiosks. Again, these services should complement and not replace services provided by live persons in the courts.

Suggestions on Using Equipment in Certain Settings, such as Self-Help, Counters, Kiosks

In addition to the language identification posters, brochures, and cards mentioned on other sections above, there are also spoken audio language buttons available for those who are not literate in their spoken language. The use of computers or tablets may also facilitate both the written and audio identification services with minimal cost.

The use of video or telephonic services in public settings should include various types of equipment, such as the use of dual headphones, dual receivers, or jack splitters to allow two phones use the same phone line. The use of speakerphone is not feasible or appropriate at public counters or self-help centers due to the surrounding noise, lack of space, and discomfort of court users having to state personal information loudly into a speakerphone microphone. Companies such as LanguageLine Solutions and other interpretation agencies offer such equipment, but we do not endorse any particular product.

IX. Conclusion

Thank you for taking the time to review our comments as the Judicial Council takes these critical steps to develop, finalize, and implement the LAP. We look forward to working collaboratively with you to provide access to justice for all Californians.

Respectfully submitted:

Asian Americans Advancing Justice – Los Angeles
Asian Law Alliance
Asian Pacific American Bar Association of Los Angeles County
Asian Pacific Islander Institute on Domestic Violence
Asian Pacific Islander Legal Outreach
Bay Area Legal Aid
California Rural Legal Assistance, Inc.
Center for the Pacific Asian Family
Disability Rights Legal Center
Inner City Law Center
Korean American Bar Association of Southern California
Korean American Family Services
Korean Resource Center
Legal Aid Foundation of Los Angeles
Legal Services of Northern California
Los Angeles Center for Law and Justice
Los Angeles Community Action Network
Mexican American Bar Association
Neighborhood Legal Services of Los Angeles County
Public Counsel
South Asian Bar Association of Southern California
Thai Community Development Center
Western Center on Law and Poverty
Youth Law Center

APPENDIX – Referenced and Additional Resources

Limited English Proficiency (LEP): A Federal Intra-agency Website

<http://www.lep.gov>

Social Security Administration, For Persons with Limited English Proficiency

<http://www.ssa.gov/multilanguage/LEPPlan2.htm>

Interagency Language Roundtable (ILR)

<http://www.govtilr.org>

Migration Policy Institute

<http://www.migrationpolicy.org/topics/language-access>

California Department of Education (CDE) DataQuest

<http://data1.cde.ca.gov/dataquest/>

Legal Services Corporation (LSC) Resource Information

<http://lri.lsc.gov/engaging-clients/language-access>

U.S. Census Bureau

<https://www.census.gov/>

Asian and Pacific Islander American Health Forum

<http://www.apiahf.org/>

Asian Pacific Islander Institute on Domestic Violence

<http://www.apiidv.org/>

State Bar of California, Center on Access to Justice

<http://www.calbar.ca.gov/AboutUs/CenteronAccesstoJustice.aspx>

Indigenous Mexicans in California Agriculture

<http://www.indigenousfarmworkers.org/>

A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in California

http://advancingjustice-la.org/system/files/Communities_of_Contrast_California_2013.pdf

A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in Los Angeles

http://advancingjustice-la.org/system/files/CommunityofContrasts_LACounty2013.pdf

American Bar Association Standing Committee on Legal Aid and Indigent Defendants

http://www.americanbar.org/groups/legal_aid_indigent_defendants.html

National Center for State Courts (NCSC)

<http://www.ncsc.org/>

Mass Legal Services, Online Resource for Massachusetts Poverty Law Advocates

<http://www.masslegalservices.org/library-directory/language-access>

Federal Court Interpreter Orientation Manual and Glossary

<http://www.uscourts.gov/uscourts/FederalCourts/Interpreter/federal-court-interpreter-orientation-manual.pdf>

Sacramento Superior Court Legal Glossaries

<http://www.saccourt.ca.gov/general/legal-glossaries/legal-glossaries.aspx>

Culture Connect, Inc.

<http://www.cultureconnectinc.org/>

State-Specific Language Access Plans and Resources

Strategic Plan for Implementing Enhanced Language Access in the Colorado State Courts

http://www.courts.state.co.us/userfiles/file/Interpreters/Program_Information/Colorado%20Language%20Access%20Plan%203_15_12%20FINAL.pdf

Wisconsin Director of State Courts, Language Access Plan

<http://www.wicourts.gov/services/interpreter/docs/laplan.pdf>

State of Delaware Administrative Office of the Courts, *Language Access Plan*

<http://courts.delaware.gov/forms/download.aspx?id=64928>

Supreme Court of Ohio and The Ohio Judicial System, Language Services Program

<http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/default.asp>

Washington Court Interpreter Commission, Interpreter Disciplinary Process

http://www.courts.wa.gov/programs_orgs/pos_interpret/content/pdf/InterpDiscRules%20Final%20Apprvd%20May%202012.pdf

California Department of Education
 Data Reporting Office
 Prepared: 4/7/2014 1:35:13 PM

-Select another year-

Selected Statewide Data Summarized by County
 for the year 2012-13

Click on the county name to generate a report for that county.

County	Enrollment	English Learners (# and % of Enrollment)	Fluent-English-Proficient Students (# and % of Enrollment)
ALAMEDA	220,286	45,903 (20.8 %)	52,118 (23.7 %)
ALPINE	105	0 (0.0 %)	0 (0.0 %)
AMADOR	4,184	72 (1.7 %)	190 (4.5 %)
BUTTE	31,262	2,824 (9.0 %)	2,398 (7.7 %)
CALAVERAS	5,959	114 (1.9 %)	311 (5.2 %)
COLUSA	4,482	1,603 (35.8 %)	1,161 (25.9 %)
CONTRA COSTA	171,418	29,316 (17.1 %)	26,014 (15.2 %)
DEL NORTE	4,197	414 (9.9 %)	256 (6.1 %)
EL DORADO	29,441	2,446 (8.3 %)	1,772 (6.0 %)
FRESNO	196,503	42,243 (21.5 %)	35,900 (18.3 %)
GLENN	5,515	1,293 (23.4 %)	1,262 (22.9 %)
HUMBOLDT	17,936	1,192 (6.6 %)	553 (3.1 %)
IMPERIAL	36,589	15,433 (42.2 %)	8,983 (24.6 %)
INYO	4,458	368 (8.3 %)	423 (9.5 %)
KERN	178,671	37,267 (20.9 %)	33,635 (18.8 %)
KINGS	28,781	6,173 (21.4 %)	4,107 (14.3 %)
LAKE	9,145	982 (10.7 %)	607 (6.6 %)
LASSEN	4,645	158 (3.4 %)	58 (1.2 %)
LOS ANGELES	1,564,205	354,601 (22.7 %)	464,956 (29.7 %)
MADERA	30,478	7,795 (25.6 %)	6,520 (21.4 %)
MARIN	31,868	4,432 (13.9 %)	3,949 (12.4 %)
MARIPOSA	1,916	54 (2.8 %)	44 (2.3 %)
MENDOCINO	13,100	2,555 (19.5 %)	1,567 (12.0 %)
MERCED	56,349	15,442 (27.4 %)	13,230 (23.5 %)
MODOC	1,445	271 (18.8 %)	106 (7.3 %)
MONO	2,038	563 (27.6 %)	392 (19.2 %)
MONTEREY	73,460	28,332 (38.6 %)	17,196 (23.4 %)
NAPA	20,725	4,392 (21.2 %)	5,360 (25.9 %)
NEVADA	12,509	381 (3.0 %)	348 (2.8 %)
ORANGE	501,801	123,245 (24.6 %)	117,600 (23.4 %)
PLACER	69,831	5,289 (7.6 %)	5,277 (7.6 %)
PLUMAS	2,157	70 (3.2 %)	49 (2.3 %)
RIVERSIDE	425,968	85,783 (20.1 %)	79,098 (18.6 %)
SACRAMENTO	238,290	39,803 (16.7 %)	35,747 (15.0 %)
SAN BENITO	11,233	2,917 (26.0 %)	1,761 (15.7 %)
SAN BERNARDINO	412,163	79,518 (19.3 %)	68,426 (16.6 %)
SAN DIEGO	499,850	110,325 (22.1 %)	95,124 (19.0 %)

SAN FRANCISCO	57,860	15,037 (26.0 %)	17,215 (29.8 %)
SAN JOAQUIN	139,146	30,697 (22.1 %)	24,139 (17.3 %)
SAN LUIS OBISPO	34,670	5,082 (14.7 %)	2,722 (7.9 %)
SAN MATEO	93,931	22,861 (24.3 %)	19,629 (20.9 %)
SANTA BARBARA	66,837	22,093 (33.1 %)	11,032 (16.5 %)
SANTA CLARA	273,701	64,408 (23.5 %)	78,622 (28.7 %)
SANTA CRUZ	39,960	11,042 (27.6 %)	6,931 (17.3 %)
SHASTA	27,176	760 (2.8 %)	769 (2.8 %)
SIERRA	381	20 (5.2 %)	10 (2.6 %)
SISKIYOU	5,898	191 (3.2 %)	126 (2.1 %)
SOLANO	64,010	7,700 (12.0 %)	9,313 (14.5 %)
SONOMA	70,637	15,437 (21.9 %)	9,958 (14.1 %)
STANISLAUS	105,588	25,001 (23.7 %)	17,480 (16.6 %)
SUTTER	21,170	3,186 (15.0 %)	3,827 (18.1 %)
TEHAMA	10,495	1,488 (14.2 %)	1,035 (9.9 %)
TRINITY	1,622	17 (1.0 %)	13 (0.8 %)
TULARE	99,964	27,584 (27.6 %)	19,458 (19.5 %)
TUOLUMNE	6,245	93 (1.5 %)	80 (1.3 %)
VENTURA	141,683	32,018 (22.6 %)	23,689 (16.7 %)
YOLO	29,250	5,730 (19.6 %)	5,623 (19.2 %)
YUBA	13,802	2,319 (16.8 %)	1,397 (10.1 %)
State Totals:	6,226,989	1,346,333 (21.6%)	1,339,566 (21.5%)

Select a Report Number of English Learners by Language
 Select a Year 2012-13
 Select a County
 Select Subgroup All Students
 Select Gender All

English Learner Students by Language by Grade

State of California

2012-13

Subgroup:All Students, Gender:All

Language Code	Language Name	Kindergarten	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Ungraded	Total	Percent of Total
01	Spanish	152,556	153,353	146,031	119,826	100,731	81,839	68,754	60,898	52,416	57,156	52,687	46,921	44,025	1,724	1,138,917	84.59%
02	Vietnamese	5,164	5,052	4,740	3,468	2,549	1,796	1,509	1,297	972	990	1,109	1,132	1,223	81	31,082	2.31%
05	Filipino (Pilipino or Tagalog)	2,088	2,302	2,504	2,038	1,656	1,446	1,204	980	942	1,043	1,030	947	852	31	19,063	1.42%
03	Cantonese	2,746	2,664	2,623	1,867	1,248	805	699	735	663	770	895	932	835	27	17,509	1.30%
07	Mandarin (Putonghua)	2,476	2,159	1,950	1,217	787	606	574	606	612	767	820	805	758	14	14,151	1.05%
11	Arabic	1,713	1,779	1,726	1,409	1,131	1,010	820	739	637	668	663	608	572	11	13,486	1.00%
23	Hmong	1,334	1,411	1,376	1,236	1,086	831	861	730	643	585	673	677	791	16	12,250	0.91%
99	Other non-English languages	1,663	1,710	1,766	1,238	930	713	580	491	457	506	507	476	531	13	11,581	0.86%
04	Korean	2,097	1,874	1,670	1,195	783	675	531	464	429	448	454	380	400	24	11,424	0.85%
28	Punjabi	1,393	1,350	1,238	862	610	445	388	362	282	341	297	331	331	11	8,241	0.61%
29	Russian	1,126	1,183	1,051	766	550	420	306	278	266	243	228	239	204	6	6,866	0.51%
12	Armenian	944	986	978	620	511	381	288	304	282	356	351	338	325	14	6,678	0.50%
16	Farsi (Persian)	702	727	736	562	472	353	273	240	216	252	248	276	258	9	5,324	0.40%
08	Japanese	973	904	795	606	404	326	229	201	183	142	108	126	98	8	5,103	0.38%
09	Khmer (Cambodian)	584	593	572	479	361	360	265	284	233	221	269	251	242	4	4,718	0.35%
22	Hindi	772	755	615	433	277	210	152	147	128	121	137	123	113	7	3,990	0.30%
35	Urdu	417	458	386	314	236	180	148	127	100	112	104	105	106	7	2,800	0.21%
49	Mixteco	347	387	267	257	207	185	122	107	107	95	78	68	48	0	2,275	0.17%
10	Lao	262	278	284	276	202	173	133	110	93	87	99	80	102	4	2,183	0.16%
54	Chaldean	204	243	227	148	143	117	126	105	116	91	153	119	183	0	1,975	0.15%
06	Portuguese	278	255	241	199	158	97	87	77	65	78	83	89	90	1	1,798	0.13%
38	Ukrainian	234	226	207	186	136	112	107	113	70	75	65	40	40	0	1,611	0.12%
17	French	223	201	183	174	101	78	77	64	50	69	61	56	61	0	1,398	0.10%
32	Thai	133	146	155	107	128	78	54	72	55	98	116	100	100	1	1,343	0.10%
60	Somali	141	161	178	167	125	110	91	75	73	48	55	45	52	0	1,321	0.10%
34	Tongan	107	115	112	120	94	69	88	82	61	60	79	73	75	2	1,137	0.08%
40	Pashto	194	166	143	147	110	63	58	52	44	36	42	33	34	1	1,123	0.08%
62	Telugu	358	334	167	85	58	33	13	14	6	5	5	6	3	0	1,087	0.08%
43	Gujarati	195	179	173	129	77	53	45	31	37	38	28	30	34	1	1,050	0.08%
21	Hebrew	219	193	169	108	85	72	48	26	31	34	33	19	9	0	1,046	0.08%
30	Samoan	86	92	101	108	86	88	64	60	65	70	80	51	65	0	1,016	0.08%
25	Ilocano	81	104	98	83	94	70	69	53	60	69	75	52	58	5	971	0.07%
18	German	162	165	115	105	78	50	30	29	17	25	60	71	40	0	947	0.07%
26	Indonesian	133	152	145	93	61	42	46	31	25	39	23	47	33	0	870	0.06%

44	Mien (Yao)	97	114	101	104	74	60	54	50	37	23	37	36	37	3	827	0.06%
61	Bengali	168	155	150	79	75	28	33	29	23	23	17	14	15	1	810	0.06%
45	Rumanian	127	98	118	99	67	43	44	38	28	32	30	24	34	2	784	0.06%
42	Assyrian	76	96	96	58	48	52	54	43	38	28	35	39	52	0	715	0.05%
63	Tamil	242	189	108	59	28	20	12	4	6	3	11	4	3	0	689	0.05%
13	Burmese	74	82	82	57	53	31	47	44	37	52	35	34	41	1	670	0.05%
33	Turkish	92	93	68	57	57	25	21	9	15	14	11	17	18	0	497	0.04%
36	Cebuano (Visayan)	49	56	60	45	38	28	25	16	18	16	19	27	22	1	420	0.03%
27	Italian	77	72	56	42	31	29	15	13	13	9	6	12	35	0	410	0.03%
57	Tigrinya	62	42	49	38	29	31	13	19	13	16	21	26	36	3	398	0.03%
52	Serbo-Croatian (Bosnian, Croatian, Serbian)	60	49	73	41	28	23	19	12	9	12	18	12	16	0	372	0.03%
53	Toishanese	63	62	60	37	14	14	18	14	18	7	17	21	13	0	358	0.03%
48	Marshallese	46	52	33	29	31	30	20	22	11	16	18	24	18	3	353	0.03%
46	Taiwanese	54	50	53	44	22	19	13	10	5	10	17	14	18	2	331	0.02%
47	Lahu	61	33	44	31	29	14	22	15	10	9	7	12	9	0	296	0.02%
39	Chaozhou (Chiuchow)	28	37	49	33	20	15	17	11	7	13	13	11	13	0	267	0.02%
51	Kurdish (Kurdi, Kurmanji)	38	28	41	19	18	18	16	16	11	7	9	22	19	0	262	0.02%
15	Dutch	41	50	37	38	24	15	10	8	6	6	4	11	8	0	258	0.02%
41	Polish	62	33	40	32	12	15	9	12	4	4	3	5	3	0	234	0.02%
64	Marathi	98	59	33	15	13	6	1	0	3	1	1	0	1	0	231	0.02%
24	Hungarian	45	49	30	28	15	10	6	7	12	6	6	3	4	1	222	0.02%
65	Kannada	73	62	32	8	16	4	2	0	0	1	0	1	0	0	199	0.01%
19	Greek	27	19	29	22	15	7	6	8	12	5	14	9	2	0	175	0.01%
56	Albanian	17	20	17	9	5	3	5	4	5	2	4	2	4	1	98	0.01%
50	Khmu	9	9	14	12	8	4	7	9	5	4	2	1	6	0	90	0.01%
20	Chamorro (Guamanian)	1	8	4	4	2	2	0	1	2	2	3	2	2	0	33	0.00%

Agency	Language Name	Kindergarten	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Ungraded	Total
Statewide Total	All Languages	183,892	184,274	175,199	141,668	117,037	94,432	79,328	70,398	60,784	66,059	62,073	56,029	53,120	2,040	1,346,333

Select a Report Number of Fluent-English-Proficient (FEP) by Language
 Select a Year 2012-13
 Select a County
 Select Subgroup All Students
 Select Gender All

Fluent-English-Proficient Students by Language by Grade

State of California

2012-13

Subgroup:All Students, Gender:All

Language Code	Language Name	Kindergarten	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Ungraded	Total	Percent of Total
01	Spanish	7,920	11,563	15,748	40,537	60,156	79,815	93,832	102,056	107,682	114,626	113,533	111,630	113,873	285	973,256	72.65%
02	Vietnamese	385	740	1,209	2,961	4,385	4,783	5,062	5,830	5,434	4,890	5,750	5,920	6,010	5	53,364	3.98%
05	Filipino (Pilipino or Tagalog)	380	664	840	1,748	2,453	2,909	3,546	4,005	4,304	4,749	4,858	4,985	5,067	11	40,519	3.02%
03	Cantonese	400	608	870	1,997	2,534	3,064	3,249	3,895	3,595	3,734	4,257	4,622	4,796	6	37,627	2.81%
07	Mandarin (Putonghua)	987	1,460	1,781	2,597	2,897	3,265	3,212	3,649	3,245	3,364	3,625	3,716	3,751	6	37,555	2.80%
04	Korean	338	608	798	1,638	1,992	2,268	2,583	2,769	2,808	2,857	3,176	3,304	3,550	8	28,697	2.14%
99	Other non-English languages	429	696	1,057	1,653	1,919	1,993	2,091	2,067	2,038	1,805	1,996	2,208	2,103	4	22,059	1.65%
28	Punjabi	113	198	332	600	870	997	1,149	1,164	1,328	1,379	1,232	1,400	1,325	0	12,087	0.90%
12	Armenian	184	189	267	718	794	927	945	1,112	1,198	1,318	1,350	1,411	1,442	13	11,868	0.89%
11	Arabic	174	269	297	671	863	1,013	1,123	1,162	1,165	1,169	1,214	1,194	1,086	2	11,402	0.85%
16	Farsi (Persian)	223	275	403	578	780	854	961	1,109	1,111	1,183	1,208	1,263	1,251	4	11,203	0.84%
29	Russian	173	288	417	697	822	988	997	999	1,097	1,093	1,100	1,101	958	2	10,732	0.80%
23	Hmong	25	57	100	295	450	730	828	956	1,113	1,219	1,299	1,457	1,555	8	10,092	0.75%
22	Hindi	290	442	541	713	807	817	810	786	746	764	805	805	717	0	9,043	0.68%
08	Japanese	181	253	271	557	670	679	706	664	713	655	638	648	675	2	7,312	0.55%
09	Khmer (Cambodian)	43	71	89	232	365	458	563	615	645	728	726	841	967	0	6,343	0.47%
35	Urdu	74	118	159	269	373	452	424	480	506	537	471	486	476	1	4,826	0.36%
43	Gujarati	80	146	168	252	273	320	288	302	317	308	361	308	338	0	3,461	0.26%
17	French	91	157	145	204	263	270	285	310	318	298	277	266	296	0	3,180	0.24%
06	Portuguese	76	128	109	178	213	227	244	272	279	292	301	347	315	0	2,981	0.22%
10	Lao	25	30	35	102	164	237	255	297	284	330	375	408	413	0	2,955	0.22%
21	Hebrew	104	142	181	233	253	230	257	279	245	245	225	228	222	0	2,844	0.21%
18	German	94	124	152	204	233	219	233	200	219	184	255	276	259	0	2,652	0.20%
62	Telugu	165	294	240	256	221	195	172	148	108	127	123	76	42	0	2,167	0.16%
32	Thai	28	60	64	109	145	165	176	204	170	201	239	236	287	2	2,086	0.16%
26	Indonesian	37	53	67	114	147	177	174	210	197	214	219	221	249	0	2,079	0.16%
38	Ukrainian	6	12	25	62	107	119	187	223	231	245	237	254	216	0	1,924	0.14%
61	Bengali	59	78	95	149	198	197	183	168	142	147	164	130	148	0	1,858	0.14%
63	Tamil	139	247	180	195	217	142	166	114	94	126	113	84	40	0	1,857	0.14%
44	Mien (Yao)	10	13	26	36	69	103	118	131	142	186	170	225	247	0	1,476	0.11%
45	Rumanian	27	65	63	65	115	95	117	145	149	158	171	154	145	1	1,470	0.11%
25	Ilocano	8	14	13	40	65	99	124	112	130	152	169	162	189	0	1,277	0.10%
40	Pashto	34	33	33	75	83	126	103	125	100	108	103	102	94	0	1,119	0.08%
	Serbo-																

52	Croatian (Bosnian, Croatian, Serbian)	25	24	36	46	63	84	68	90	102	101	119	126	119	0	1,003	0.07%
13	Burmese	13	7	19	37	67	87	82	104	106	122	101	127	121	0	993	0.07%
39	Chaozhou (Chiuchow)	7	10	23	32	62	72	87	122	127	90	110	116	124	0	982	0.07%
27	Italian	39	46	52	73	78	86	87	82	82	69	63	99	123	0	979	0.07%
34	Tongan	9	13	18	33	51	70	84	98	107	101	105	123	137	0	949	0.07%
64	Marathi	92	105	78	83	95	78	64	60	64	66	64	40	28	0	917	0.07%
46	Taiwanese	19	31	27	43	57	54	70	109	74	88	85	111	124	0	892	0.07%
30	Samoan	6	18	14	28	40	64	77	81	120	114	94	100	121	0	877	0.07%
42	Assyrian	9	19	16	38	58	64	75	71	76	111	94	105	104	1	841	0.06%
36	Cebuano (Visayan)	3	16	21	49	59	66	79	98	86	96	85	76	95	0	829	0.06%
60	Somali	5	11	23	23	48	70	81	82	95	106	97	101	86	0	828	0.06%
41	Polish	30	27	32	40	62	54	51	66	58	82	63	74	81	0	720	0.05%
15	Dutch	13	28	35	52	65	67	54	60	33	70	44	57	65	0	643	0.05%
33	Turkish	22	37	27	47	60	52	58	62	58	56	63	46	49	0	637	0.05%
54	Chaldean	2	2	1	67	48	75	65	69	83	20	68	41	60	0	601	0.04%
65	Kannada	46	67	58	69	54	49	49	33	41	30	35	18	9	0	558	0.04%
57	Tigrinya	7	8	10	35	26	29	42	50	62	51	67	44	52	0	483	0.04%
19	Greek	13	23	23	23	31	43	35	38	47	53	42	48	59	0	478	0.04%
24	Hungarian	17	22	26	32	36	57	37	39	58	45	31	42	34	0	476	0.04%
53	Toishanese	1	2	8	23	28	27	22	23	21	12	35	41	64	0	307	0.02%
49	Mixteco	0	0	1	10	19	44	38	44	40	26	31	20	18	0	291	0.02%
51	Kurdish (Kurdi, Kurmanji)	0	1	2	13	19	17	22	32	28	15	35	30	21	0	235	0.02%
56	Albanian	4	3	5	13	23	16	13	25	13	23	25	28	20	0	211	0.02%
47	Lahu	0	3	1	7	14	14	23	20	25	20	21	23	19	0	190	0.01%
50	Khmu	2	4	2	6	6	11	9	10	15	8	6	15	17	0	111	0.01%
48	Marshallese	1	3	3	4	6	8	9	12	15	8	10	10	8	0	97	0.01%
20	Chamorro (Guamanian)	1	2	1	2	2	3	5	9	5	7	10	6	14	0	67	0.01%

Agency	Language Name	Kindergarten	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Ungraded	Total
Statewide Total	All Languages	13,688	20,627	27,337	61,663	87,073	110,294	126,549	138,147	143,494	150,981	152,343	152,135	154,874	361	1,339,566

Building a Vocabulary

The following terms are commonly used by CPAF when speaking with clients. Some clients may not be familiar with certain American concepts or institutions (e.g., welfare, DMV, etc.). In those cases, it is as important to be able to describe a term as it is to provide a direct translation of the term. Please provide direct translations and, as you see fit, descriptions for the items below.

DOMESTIC VIOLENCE/SEXUAL ASSAULT

- domestic violence: 家庭暴力 - jia ting bao li
- emotional abuse: 精神虐待 – jing shen nue dai
- economic abuse: 經濟虐待 – jing ji nue dai
- violence: 暴力 – bao li
- abuse: 虐待 – nue dai
- abuser: 施虐者 – shi nue zhe
- threat: 威脅, 恐嚇 – wei xie, kong he
- slap, hit, kick: 抽, 打, 踢 – chou , da, ti
- manipulate: 掌控, 操縱 – zhang kong, cao zong
- weapon (gun, knife): 武器 (槍支, 刀) - wu qi (qiang zhi, dao)
- sexual assault: 性侵 – xing qin
- rape: 強暴 – qiang bao
- consent: 同意, 允許 - tong yi, yun xu
- coercion: 強迫 – qiang po
- same-sex relationship: 同性戀關係 – tong xing lian guan xi

LEGAL/LAW ENFORCEMENT

- law/legal: 法律 – fa lv
- rights: 權益 – quan yi
- police: 警察 – jing cha
- police report: 警察報告 – jing cha bao gao
- arrest, jail, probation: 逮捕, 監獄, 假釋 – dai bu, jian yu, jia shi
- lawyer, attorney: 律師 –lv shi

- restraining order: 禁止接近令 – jin zhi jie jin ling
- emergency protective order (EPO): 緊急保護令 – jin ji bao hu ling
- temporary restraining order (TRO): 暫時禁止接近令 - zhan shi jin shi jie jin ling
- judge: 法官 – fa guan
- district attorney: 地區檢察官 – di qu jian cha guan
- public defender: 公設辯護律師 – gong she bian fu lv shi
- civil court: 民事法庭 – min shi fa ting
- criminal court: 刑事法庭 – xing shi fa ting
- divorce: 離婚 – li huan
- legal separation: 法定分居 – fa ding fen ju
- child custody: 子女撫養監護權 – zi nv fu yang jian fu quan
- physical custody (sole or joint): 監護權 (單獨或共同)
 - jian fu quan (dan du huo gong tong)
- legal custody (sole or joint): 法定監護權 (單獨或共同)
 - fa ding jian fu quan (dan du huo gong tong)
- visitation (unsupervised or supervised): 探視 (無監督的或有監督的)
 - tan shi (wu jian du de huo you jian du de)
- division of property: 財產分割 – cai chan fen ge

CPAF SERVICES

- hotline: 熱線 - re xian
- shelter: 庇護所 – pi hu suo
- emergency shelter: 緊急庇護所 – jin ji pi hu suo
- transitional shelter: 中途之家 – zhong tu zhi jia
- advocate: 提倡, 推廣 (社工) - tic hang, tui guang (she gong)
- counseling: 輔導 – fu dao

- counselor/therapist: 輔導員 / 治療師 – fu dao yuan/zhi liao shi
- confidential/anonymous: 保密/匿名 – bao mi/ni ming
- referral: 推薦 – tui jian
- intake: 吸收 – xi shou
- Motel voucher: 旅館住宿卷 – lv guan zhu su juan
- Taxi voucher: 計程車卷 – ji cheng che juan

RESOURCES

- free services: 免費服務 – mian fei fu wu
- Department of Public Social Services (DPSS): 社會公共福利局 – she hui gong gong fu li ju
- public aid (CalWORKS, food stamps): 政府援助 - zheng fu yuan zhu
- welfare: 福利 – fu li
- unemployment: 失業 – shi ye
- Department of Children & Family Services (DCFS): 兒童家庭服務局 – er tong jia ting fu wu ju
- Department of Motor Vehicles (DMV): 機動車管理局 (汽車監理所) ji dong che guan li ju (qi che jian li suo)
- mental health: 心理健康 – xin li jian kang
- mediator, mediation: 調解人 – tiao jie ren

IMPORTANT DOCUMENTS

- identification card: 身份證 – shen fen zheng
- social security number: 社會安全號碼 – she hui an quan hao ma
- birth certificate: 出生證明書 – chu sheng zheng min shu
- marriage certificate: 結婚證書 – jie huan zheng shu
- county registrar: 縣司法常務辦公室 – xian si fa chang wu ban gong shi

IMMIGRATION AND CITIZENSHIP

- immigration status: 移民身份 – yi min shen fen
- US citizen: 美國公民 – mei guo gong min
- green card (conditional or permanent): 綠卡 (條件性或永久)
 - lv ka (tiao jian xing huo yong jiu)
- resident (conditional or permanent): 居民 (條件性或永久)
 - ju min (tiao jian xing huo yong jiu)
- undocumented: 無文件證明的, 沒身份的 - wu wen jian zheng ming de, mei sheng fen de
- sponsor: 贊助人, 擔保人 - zan zhu ren, dan bao ren
- petition, self-petition: 申訴, 自訴 – sheng su, zi su

ADDITIONAL PHRASES AND CONCEPTS

- volunteer : 義工 - yi gong
- intern : 實習生 - shi xi sheng
- staff : 工作人員 - gong zuo ren yuan
- supervisor/manager: 主管/經理 - zhu guan/ jing li

Building a Vocabulary

The following terms are commonly used by CPAF when speaking with clients. Some clients may not be familiar with certain American concepts or institutions (e.g., welfare, DMV, etc.). In those cases, it is as important to be able to describe a term as it is to provide a direct translation of the term. Please provide direct translations and, as you see fit, descriptions for the items below.

DOMESTIC VIOLENCE/SEXUAL ASSAULT

- domestic violence: _가정 폭력_____
- emotional abuse: _정서적 학대_____
- economic abuse: _경제적 학대_____
- violence: _폭력_____
- abuse: _학대_____
- abuser: _학대자_____
- threat: _위협_____
- slap, hit, kick: _뺨을 때리다, 구타하다, 발로 차다 _____
- manipulate: _조종하다_____
- weapon (gun, knife): _무기_(총, 칼)_____
- sexual assault: _성폭행_____
- rape: _강간_____
- consent: _동의_____
- coercion: _강제_____
- same-sex relationship: _동성 관계_____

LEGAL/LAW ENFORCEMENT

- law/legal: _법/ 법적_____
- rights: 권리_____
- police: _경찰_____
- police report: _경찰 보고서_____
- arrest, jail, probation: _체포, 감옥, 집행유예_____
- lawyer, attorney: _변호사, 변호인_____
- restraining order: _접근금지명령_____

- emergency protective order (EPO): _긴급보호명령_____
- temporary restraining order (TRO): _임시_접근금지명령_____
- judge: __판사_____
- district attorney: __지방 검사_____
- public defender: __국선 변호인_____
- civil court: __민사 법원_____
- criminal court: _형사 법원_____
- divorce: _이혼_____
- legal separation: _법률상 별거_____
- child custody: _자녀 양육권_____
- physical custody (sole or joint): 신체적_양육권 (단독 또는 공동)
- legal custody (sole or joint): _법적 양육권 (단독 또는 공동)
- visitation (unsupervised or supervised): _방문 (감독 또는 비감독)
- division of property: _재산_배분_____

CPAF SERVICES

- hotline: _응급전화_____
- shelter: _보호소_____
- emergency shelter: _응급_보호소_____
- transitional shelter: _장기_보호소_(과도기_보호소)_____
- advocate: __옹호자, 지지자_____
- counseling: __상담_____
- counselor/therapist: __상담가_____
- confidential/anonymous: __비밀의/익명의_____
- referral: _소개_____
- intake: __받아들임, 수용_____
- Motel voucher: __모텔 숙박권_____
- Taxi voucher: __택시이용권_____

RESOURCES

- free services: _무료봉사_____
- Department of Public Social Services (DPSS): _공공사회복지기관_____
- public aid (CalWORKS, food stamps): _정부보조_____
- welfare: __복지_____
- unemployment: __실업_____
- Department of Children & Family Services (DCFS): _아동가족서비스국
- Department of Motor Vehicles (DMV): __차량등록국_____
- mental health: __정신 건강_____
- mediator, mediation: _중재자, 중재_____

IMPORTANT DOCUMENTS

- identification card: _신분증_____
- social security number: _사회보장번호_____
- birth certificate: __출생증명서_____
- marriage certificate: __결혼증명서_____
- county registrar: _카운티 등록담당_____

IMMIGRATION AND CITIZENSHIP

- immigration status: _이민자 신분_____
- US citizen: _미국 시민권자_____
- green card (conditional or permanent): _영주권 (조건부_또는 영구적인)_____
- resident (conditional or permanent): _거주자 (조건부_또는 영구적인)_____
- undocumented: _불법체류_____
- sponsor: _후원자_____
- petition, self-petition: _청원, 본인 청원_____

ADDITIONAL PHRASES AND CONCEPTS

- volunteer: __자원봉사자_____
- intern: __수습생_____
- staff: __직원_____
- supervisor/manager: _감독자/지배인_____

Building a Vocabulary

The following terms are commonly used by CPAF when speaking with clients. Some clients may not be familiar with certain American concepts or institutions (e.g., welfare, DMV, etc.). In those cases, it is as important to be able to describe a term as it is to provide a direct translation of the term. Please provide direct translations and, as you see fit, descriptions for the items below.

DOMESTIC VIOLENCE/SEXUAL ASSAULT

- domestic violence: __ bạo hành trong gia đình _____
- emotional abuse: __ ngược đãi về tình cảm, ngược đãi về tinh thần _____
- verbal abuse: __ ngược đãi về lời nói _____
- economic abuse: __ ngược đãi về kinh tế (tài chính) _____
- violence: __ bạo lực _____
- abuse: __ ngược đãi _____
- abuser: __ người ngược đãi/người lạm dụng _____
- threat: __ hăm dọa/đe dọa _____
- slap, hit, kick: __ tát, đánh, đá _____
- manipulate: __ lôi kéo bằng mách khéo _____
- weapon (gun, knife): __ vũ khí (súng, dao) _____
- sexual assault: __ cưỡng hiếp/ tấn công tình dục _____
- rape: __ hãm hiếp _____
- consent: __ đồng ý/chấp thuận _____
- coercion: __ áp bức, ép buộc _____
- same-sex relationship: __ quan hệ đồng tính _____

LEGAL/LAW ENFORCEMENT

- law/legal: __ luật/hợp pháp _____
- rights: __ có quyền/quyền lợi _____
- police: __ cảnh sát _____
- police report: __ bản báo cáo của cảnh sát _____
- arrest, jail, probation: __ bắt giữ, nhà tù, án treo/quản chế _____
- lawyer, attorney: __ luật sư _____

- restraining order: __ lệnh cách ly (một tờ giấy được toà án/quan toà cung cấp cho người bị hại và yêu cầu đối phương không được đến gần người bị hại trong một khoảng cách nhất định nào đó)
- emergency protective order (EPO): __ lệnh bảo vệ khẩn cấp _____
- temporary restraining order (TRO): __ lệnh cấm chỉ tạm thời _____
- judge: __ quan toà/thẩm phán _____
- district attorney: __ biện lý (người đại diện cho luật pháp trong các vụ án hình sự) _____
- public defender: __ luật sư công cử (luật sư được toà bổ nhiệm cho bị cáo khi họ không đủ điều kiện để thuê luật sư)
- civil court: __ toà án nhân sự _____
- criminal court: __ toà án hình sự _____
- divorce: __ ly dị _____
- legal separation: __ ly thân hợp pháp _____
- child custody: __ quyền nuôi giữ con _____
- physical custody (sole or joint): quyền nuôi dưỡng con từ cha mẹ (một hoặc cả hai) _____
- legal custody (sole or joint): quyền nuôi giữ con hợp pháp ((một hoặc cả hai) _____
- visitation (unsupervised or supervised): __ sự thăm viếng con cái (của cha/mẹ không có quyền giữ con)
- division of property: __ phân chia tài sản _____

CPAF SERVICES

- hotline: __ đường dây nóng/ khẩn _____
- shelter: __ nơi trú ẩn/chỗ nương tựa _____
- emergency shelter: __ nơi trú ẩn khẩn cấp _____
- transitional shelter: __ nơi trú ẩn chuyển tiếp _____
- advocate: __ người đại diện/người bảo hộ _____
- counseling: __ khuyên bảo, cố vấn _____
- counselor/therapist: __ người cố vấn/người trị liệu _____
- confidential/anonymous: __ bảo mật/nặc danh _____
- referral: __ giới thiệu _____
- intake: __ lấy thông tin về ai đó _____
- Motel voucher: phiếu nhà trọ miễn phí _____
- Taxi voucher: _____ phiếu taxi miễn phí _____

RESOURCES

- free services: _____ dịch vụ miễn phí _____

- Department of Public Social Services (DPSS): __ trụ sở phục vụ cộng đồng_____
- public aid (CalWORKS, food stamps): __trợ cấp xã hội_____
- welfare: __ ăn phúc lợi của nhà nước_____
- unemployment: __ thất nghiệp_____
- Department of Children & Family Services (DCFS): trụ sở dịch vụ cho trẻ em và gia đình_____
- Department of Motor Vehicles (DMV): __ Nha lộ vận_____
- mental health: __ sức khoẻ về tinh thần_____
- mediator, mediation: __ người dàn xếp_____

IMPORTANT DOCUMENTS

- identification card: __ thẻ chứng minh nhân dân_____
- social security number: __ số an sinh xã hội_____
- birth certificate: __ giấy khai sinh_____
- marriage certificate: __ giấy kết hôn/ hôn thú_____
- county registrar: __ sở hộ tịch (bộ cục giữ giấy tờ hôn thú, khai sanh)_____

IMMIGRATION AND CITIZENSHIP

- immigration status: __ tình trạng di trú_____
- US citizen: __ công dân Mỹ_____
- green card (conditional or permanent): __ thẻ xanh (tạm thời/dài hạn)_____
- resident (conditional or permanent): __thường trú nhân có điều kiện_____
- undocumented: __ không có giấy tờ hợp pháp_____
- sponsor: __ người bảo lãnh_____
- petition, self-petition: __ đơn thỉnh cầu- một cái đơn xin với toà án về một vấn đề gì đó (_ví dụ, họ phải đưa đơn lên xin với toà án rằng họ muốn nhập cư vào Mỹ dài hạn)_____

ADDITIONAL PHRASES AND CONCEPTS

- volunteer: __ tình nguyện viên, người làm tình nguyện_____
- intern: __ người làm thực tập_____
- staff: __ nhân viên_____
- supervisor/manager: __ người giám sát/hộ, quản lý_____
- interpreter: __ thông dịch viên_____
- stress: __ căng thẳng_____

- depressed: _trầm cảm_____
- share: _xài chung_____
- community: ___cộng đồng_____
- hotline counselor: _cố vấn viên của đường dây nóng/khẩn_____
- psychological abuse: _____
- physical abuse: _____

Building a Vocabulary

The following terms are commonly used by CPAF when speaking with clients. Some clients may not be familiar with certain American concepts or institutions (e.g., welfare, DMV, etc.). In those cases, it is as important to be able to describe a term as it is to provide a direct translation of the term. Please provide direct translations and, as you see fit, descriptions for the items below.

DOMESTIC VIOLENCE/SEXUAL ASSAULT

domestic violence: 家庭内暴力 _____
emotional abuse: 精神的暴力 _____
economic abuse: 経済的暴力 _____
violence: 暴力（行為）、乱暴 _____
abuse: 虐待、酷使 _____
abuser: 虐待する人 _____
threat: 脅迫、脅し _____
slap, hit, kick: 平手打ち、たたく 殴る、蹴る キック _____
manipulate: (人を) 操る、コントロールする _____
weapon (gun, knife): 武器（銃、ナイフ） _____
sexual assault: 性的暴行 _____
rape: レイプ _____
consent: 同意、承諾、許可 _____
coercion: 強制、抑圧 _____
same-sex relationship: 同性間での関係 _____

LEGAL/LAW ENFORCEMENT

law/legal: 法律 _____
rights: 権利 _____
police: 警察 _____
police report: 被害届／ポリスレポート _____
arrest, jail, probation: 逮捕、拘置（留置）所、保護観察 _____
lawyer, attorney: 弁護士 _____
restraining order: 接近禁止命令 _____
emergency protective order (EPO): 緊急保護命令 _____
temporary restraining order (TRO): 一時的な、仮の接近禁止命令 _____
judge: 判事 _____
district attorney: 地方検事 _____
public defender: 公選弁護士 _____
civil court: 民事法廷、民事裁判所 _____
criminal court: 刑事裁判所 _____
divorce: 離婚 _____
legal separation: 法律上の別居 _____
child custody: 監護権、親権 _____
physical custody (sole or joint): 物的親権（どちらか一方のみが持つ or 父母共に持つ）
legal custody (sole or joint): 法的親権（どちらか一方が持つ or 父母共に持つ）
visitation (unsupervised or supervised): 訪問権（監視付き or なし）
division of property: 財産分与 _____

CPAF SERVICES

hotline: _ホットライン、電話相談_____

shelter: _避難所、保護施設_____

emergency shelter: _緊急シェルター_____

transitional shelter:

トランジショナルシェルター（緊急シェルターの後自分の住まいを見つけるまで滞在できるシェルター。）

advocate: _支持者、代弁者、仲裁人_____

counseling: _カウンセリング_____

counselor/therapist: _カウンセラー、セラピスト_____

confidential/anonymous: _マル秘の、内密の／匿名の、名が知られない_____

referral: _委託、（専門医などへの）照会_____

intake: _受け入れた人（人数）_____

Motel voucher: _モーテル引換券、（相当額の）割引券_____

Taxi voucher: _タクシー引換券、（相当額の）割引券_____

RESOURCES

free services: _無料サービス_____

Department of Public Social Services (DPSS): _公共社会福祉課_____

public aid (CalWORKS, food stamps): _公的援助/公的補助金_____

welfare: _生活保護／福祉援助_____

unemployment: _失業_____

Department of Children & Family Services (DCFS): _子供&ファミリー公共福祉課_____

Department of Motor Vehicles (DMV): _運転免許証などを取り扱う局_____

mental health: _精神衛生_____

mediator, mediation: _調停者、仲介者／調停、仲裁_____

IMPORTANT DOCUMENTS

identification card: _身分証明所、ID_____

social security number: _社会保障番号、ソーシャルセキュリティーナンバー_____

birth certificate: _出生証明証_____

marriage certificate: _結婚許可証_____

county registrar: _郡登録局_____

IMMIGRATION AND CITIZENSHIP

immigration status: _移民資格、在留資格_____

US citizen: _アメリカ市民_____

sponsor: _保証人_____

green card (conditional or permanent): _永住権(制限付 or 永久的) _____

resident (conditional or permanent): _居住者、在住者（制限付or永久的）_____

undocumented: _非登録外国人、不法滞在_____

petition, self-petition: _請願書、申立書／個人申請_____

ADDITIONAL PHRASES AND CONCEPTS

volunteer: _ボランティア_____

intern: _インターン／研究生_____

staff: _スタッフ／職員_____

supervisor/manager: _スーパーバイザー、監督、管理、指揮者／マネージャー_____

Building a Vocabulary

The following terms are commonly used by CPAF when speaking with clients. Some clients may not be familiar with certain American concepts or institutions (e.g., welfare, DMV, etc.). In those cases, it is as important to be able to describe a term as it is to provide a direct translation of the term. Please provide direct translations and, as you see fit, descriptions for the items below.

DOMESTIC VIOLENCE/SEXUAL ASSAULT

- Domestic violence: ความรุนแรงในครอบครัว
- emotional abuse: การทำร้ายหรือคุกคามทางอารมณ์และจิตใจ
- economic abuse: การทำร้ายหรือคุกคามสถานะการเงิน
- violence: ความรุนแรง
- abuse: ทำร้าย
- abuser: คนที่ทำร้าย
- threat: การข่มขู่
- slap, hit, kick: ตบ, ตี, เตะ
- manipulate: การปรับเปลี่ยนข้อมูล
- weapon (gun, knife): อาวุธ (ปืน, มีด)
- sexual assault: การกระทำชำเราทางเพศ
- rape: ข่มขืน
- consent: ยินยอม
- coercion: บังคับ
- same-sex relationship: ความสัมพันธ์ในเพศเดียวกัน

LEGAL/LAW ENFORCEMENT

- law/legal: กฎหมาย
- rights: สิทธิ
- police: ตำรวจ

- police report: รายงานจากตำรวจ, บันทึกประจำวัน
- arrest, jail, probation: การจับกุม ห้างขัง การภาคทัณฑ์
- lawyer, attorney: ทนาย
- restraining order: คำสั่งให้ความคุ้มครอง
- emergency protective order (EPO): คำสั่งให้ความคุ้มครองฉุกเฉิน
- temporary restraining order (TRO): คำสั่งให้ความคุ้มครองฉุกเฉินชั่วคราว
- judge: ผู้พิพากษา
- district attorney: ทนายของรัฐบาล
- public defender: ผู้พิทักษ์, ผู้รักษา
- civil court: ศาลชั้นต้น
- criminal court: ศาลอาญา
- divorce: การหย่าร้าง
- legal separation: การแยกกันอยู่ทางกฎหมาย
- child custody: สิทธิในการดูแลเด็ก
- physical custody (sole or joint): สิทธิในการดูแลเด็กทางร่างกาย (โดยลำพัง หรือ ด้วยกัน)
- legal custody (sole or joint): สิทธิในการดูแลเด็กทางกฎหมาย (โดยลำพัง หรือ ด้วยกัน)
- visitation (unsupervised or supervised): การเข้าเยี่ยม (ไม่มีผู้ควบคุม หรือ มีผู้ควบคุม)
- division of property: การแบ่งแยกทรัพย์สิน

CPAF SERVICES

- hotline: สายด่วน
- shelter: สถานสงเคราะห์
- emergency shelter: สถานสงเคราะห์ฉุกเฉิน
- transitional shelter: สถานสงเคราะห์เฉพาะกาล/ชั่วคราว
- advocate: ผู้ให้การสนับสนุน

- **counseling:** การให้คำปรึกษา
- **counselor/therapist:** ผู้ให้คำปรึกษา นักบำบัด
- **confidential/anonymous:** เป็นความลับ ไม่ระบุชื่อ
- **referral:** การอ้างอิง
- **intake:** การรับเข้า
- **Motel voucher:** ใบสั่งจ่ายค่าโรงแรม
- **Taxi voucher:** ใบสั่งจ่ายค่ารถโดยสารแท็กซี่

RESOURCES

- **free services:** การให้บริการโดยไม่มีค่าใช้จ่าย
- **Department of Public Social Services (DPSS):** กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์
- **public aid (CalWORKS, food stamps):** ความช่วยเหลือจากทางรัฐบาล
- **welfare:** สวัสดิการ
- **unemployment:** การว่างงาน
- **Department of Children & Family Services (DCFS):** กรมประชาสงเคราะห์
- **Department of Motor Vehicles (DMV):** กรมขนส่งทางบก
- **mental health:** สุขภาพจิต
- **mediator, mediation:** ผู้ไกล่เกลี่ย

IMPORTANT DOCUMENTS

- **identification card:** บัตรประชาชน
- **social security number:** หมายเลขบัตรประกันสังคม
- **birth certificate:** ใบเกิด
- **marriage certificate:** ทะเบียนสมรส
- **county registrar:** นายทะเบียนเขต

IMMIGRATION AND CITIZENSHIP

- immigration status: สถานะการอพยพเข้าเมือง
- US citizen: พลเมืองอเมริกัน
- green card (conditional or permanent): ใบเขียว (มีเงื่อนไข หรือถาวร)
- resident (conditional or permanent): ผู้อยู่อาศัย (มีเงื่อนไข หรือถาวร)
- undocumented: ไม่มีเอกสารกำกับ
- sponsor: ผู้อุปถัมภ์ ผู้ค้ำประกัน
- petition, self-petition: การยื่นคำร้อง, การยื่นคำร้องด้วยตัวเอง

ADDITIONAL PHRASES AND CONCEPTS

- volunteer: อาสาสมัคร
- intern: พนักงานฝึกงาน
- staff: พนักงาน , เจ้าหน้าที่
- supervisor/manager: ผู้ดูแล, ผู้จัดการ

- _____
- _____
- _____

April 15, 2014

To: Working Group on California's Statewide Language Access Plan
From: The California Federation of Interpreters &
The Translator's and Interpreters Guild

The California Federation of Interpreters (CFI) represents more than 850 staff interpreters working in the courts as full time, part time and as-needed employees. Independent contractors are members of CFI and of our sister organization, the Translators and Interpreters Guild (TTIG).

CFI and TTIG representatives met with the Working Group for California's Language Access Plan (LAP) on January 22, 2014 to provide input on the statewide LAP. Our comments at the meeting focused primarily on:

- the expansion of interpreter services in civil matters; and
- video remote interpreting.

These written comments provide more detail and cover additional topics.

A. Introduction

We are encouraged that the Chief Justice and Judicial Council have prioritized addressing barriers to language access, including the formation of the Working Group for a Statewide Language Access Plan (Working Group). We appreciate the inclusive approach with stakeholders, public hearings and public comment. CFI, TTIG and our members who provide professional, quality language access are allies and a resource for the expansion and improvement of language access at all levels within the judicial system.

The following concerns and recommendations inform our comments overall:

- 1) Expansion of language access should be approached in a comprehensive manner that addresses access both inside and outside of courtrooms, and throughout the court process, including ancillary services.
- 2) The plan should focus on providing high quality and reliable services to guarantee meaningful language access.
- 3) To ensure that language access is provided consistently around the state, the Language Access Plan should recommend adoption of enforceable standards, protocols, and rules of court.
- 4) Implementation should be monitored and evaluated to achieve the plan's stated objectives.

B. California's Unique Challenge and Opportunity

Recommendation: California's LAP should continue California's tradition of setting high standards for language access, and establish enforceable standards based on best practices for achieving meaningful access for all LEP court users.

California lawmakers, the Judicial Council and the Los Angeles Superior Court have historically been leaders in establishing high standards for language access. California's diversity and the demand for interpreters led California lawmakers to establish:

- competence and training requirements for court interpreters;¹ and
- an employment system that provides stability and supports the recruitment and retention of interpreters.²

As a result of these efforts over several decades, today California has a workforce of trained, professional interpreters (including staff and contractors), and is ahead of other states in its capacity to provide language access. At the same time, it is widely recognized that there are significant gaps that must be addressed in order to provide full and equal access for Limited English Proficient court users (LEP's) in civil proceedings and outside of courtrooms.

In planning to close those gaps and expand language access, the Judicial Council should not automatically accept the policy directions being developed by the National Center for State Courts, or trends in other states that do not have the history, volume of demand, or interpreter resources that we have here in California. The working group's recommendations for a statewide LAP should include full expansion of language access to fully comply with the Department of Justice guidelines including:

- certified and registered interpreters at no cost in all court proceedings;
- professional interpreters and bilingual staff for services outside of courtrooms;
- access to certified and registered interpreters for justice partners and ancillary services that are part of the court process (i.e. Public Defenders, Deputy District Attorneys, Department of Child Support Services, probation, mediation and court-appointed counsel);
- best practices and recommendations in the ABA Language Access Standards.³

¹ SB1304 (Lockyer,1992), Established certification standards, rules and procedures to restrict the use of non-certified interpreters, as well as ethics and continuing education requirements.

² SB 371 (Escutia, 2002) Established court interpreter employment positions and collective bargaining rights. Today, approximately 850 certified and registered interpreters work as staff interpreters in more than 50 languages and more than 1100 professional interpreters are available to the courts as independent contractors.

³ Bar Association. ABA standards for language access in courts, February 2012.

http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_standards_for_language_access_proposal.authcheckdam.pdf

C. Assess the Current State of Language Access Resources in California

Recommendation: Instead of assuming that there are not enough interpreters or that costs will be prohibitive to fully expand interpreter services to cover all civil matters, gather data and assess the true costs and feasibility of expansion based on:

- 1) *the available workforce including staff and contractors; and*
- 2) *data-driven estimates that account for services already being provided in civil matters.*

The LAP should recommend that the AOC work with the courts to conduct a methodical survey and gather current information to assess how much access can be expanded to civil using the current workforce of interpreters.

The courts and AOC should also gather metrics to inform cost estimates based on actual needs. Courts should develop detailed information and reports by conducting:

- 1) a survey of unmet needs in court proceedings and outside of court proceedings;
- 2) a survey of civil case types in which courts are already providing interpreters;
- 3) a study of the availability of competent interpreters (both staff and contractors); and
- 4) a study of potential efficiencies using existing resources.

An up-to-date and data-driven assessment of these factors will show that:

- The availability of certified interpreters in the most frequently used languages has increased over the past decade.
- Though supply does not fully meet demands in all languages or circumstances, this is not an impediment to meeting a large majority of the state's language-access needs.
- Many courts are already covering, within the current baseline budget, a significant portion of civil matters including domestic violence, family law, and civil harassment.
- The courts can provide competent, in-person interpreters for court proceedings and related court-ordered programs using a combination of employees and contractors.

D. Collaborate with and Leverage Knowledge of Interpreter Organizations

Recommendation: The LAP should recommend greater collaboration with interpreter organizations to create statewide projects that improve language access by leveraging the knowledge that certified court interpreters and their representative organizations have as language-access professionals.

The California Federation of Interpreters holds a unique position among organizations that represent interpreters in California as both, a professional association and a labor union. We represent nearly 900 staff interpreters, as well as independent contractors that are members of CFI or our sister organization, the Translators and Interpreters Guild (TTIG). CFI is the largest organization of legal interpreters in California, and the only organization with a formal role as the exclusive representative of interpreters throughout California.

The Interpreter Act and the Regional Memorandums of Understanding between the Superior Courts of California and CFI will require the courts to meet and confer over decisions and/or impacts of changes in the delivery of language-access services. Policy decisions and labor issues overlap, and it will be necessary to discuss issues in the policy-making context and in labor relations. Topics should not be off limits because they overlap with "labor issues." We understand the difference between the context of advocacy on policy recommendations and that of collective bargaining.

In light of our unique role and responsibilities, CFI should be given an advisory seat to participate as a stakeholder in the Working Group and the Court Interpreters Advisory Panel (CIAP). This would allow us to truly participate in the process and it would also create a very useful and positive venue to develop greater collaboration to resolve the state's language-access difficulties.

D. Reevaluating Old Assumptions: The Interpreter Shortage and Expansion Costs

Recommendation: The LAP and plans for expansion should not be based on outdated assumptions of the availability of interpreters or exaggerated estimates of the potential costs of expansion.

Assumptions about what is achievable in the area of language access in the courts are too often based on anecdotal experience and historical challenges without looking carefully at current data and factual information. The idea that there is an endemic shortage of trained, certified interpreters and that costs to meet the actual need would be prohibitive are repeatedly cited as the primary impediments to expansion of interpreter services. These assumptions are so prevalent that they are not questioned and they tend to dominate the discussion of what is achievable.

The number of certified interpreters available to the courts has actually improved significantly, however, since the employment system was implemented. After a sharp decline in the number of certified interpreters between 1995 and 2000, the number of certified interpreters has steadily increased. The total number of certified interpreters has increased 41%, with significant increases in high-demand languages including Spanish (30%), Mandarin (67%), Korean (72%), Russian (89%), Armenian (87%), Vietnamese (22%), and Cantonese (23%).⁴

Although the overall number of certified interpreters in most languages besides Spanish remains low, the relatively small numbers of certified interpreters in those languages are also proportional to the much lower demand for services. See Attachment 2: Interpreter Supply and Demand by the Numbers.

Effective use of existing resources has not been adequately explored. A paper published by the National Center for State Courts (NCSC) emphasizes that courts must go beyond bemoaning low pass rates and look to a range of solutions. "[...] courts must begin to consider improved service-utilization techniques for existing interpreter resources and provide incentives to entice new interpreters into the field. More effective management and scheduling practices can increase the number of interpreter resources, make the job of interpreting a more attractive one, and provide growth and development opportunities within the interpreting field."⁵

⁴ See Attachment 2: Certified and Registered Interpreters in California

⁵ *Wanted: Career Paths for Court Interpreters*, Romberger and Hewitt, National Center for State Courts. Ms. Romberger is a manager of interpreters services. William E. Hewitt is a Principal Court Research

In reality, California has the capacity to expand services. The courts will need to hire some additional interpreters, either as employees or contractors, and can also leverage its existing resources --the court interpreters already staffing the courts who can cover multiple cases in one assignment. These issues are discussed more fully in sections below on interpreter recruitment and retention.

Neither is a lack of funding a permissible, or justifiable reason for the failure to expand services to meet the requirement of Title VI of the Civil Rights Act of 1964. The Judicial Council and policy makers have repeatedly declared that they want to expand interpreter services, but lacked funding for this purpose. Yet the Legislature has funded interpreter services consistently, and the courts have failed to fully utilize the funding to hire court interpreters. From 2003-2011, approximately \$35 million in funding appropriated for interpreter services by the Legislature was left unspent, while over \$20 million was redirected to other operations.⁶

E. The Interpreter Act and the Employment System

Recommendation: The Working Group and Judicial Council should study the employment system and realize the potential to leverage the current system for unmet needs.

Across the nation, state courts have generally failed to recognize that stable jobs with decent pay and benefits are necessary to attract individuals with adequate language skills to interpret professionally. As such, they have continued with a contingent workforce of contractors that is not always adequate in numbers or quality.

In California, however, certification standards and the employment system have combined to create a workforce of skilled interpreters in much greater numbers than other states, particularly in Spanish, but also in other high-demand languages.

Consultant at the National Center for State Courts. Article from Future Trends in State Courts 2006. <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/accessfair/id/132>

⁶ Court Interpreter Funding and Expenditures (Program 45:45)

Source: Judicial Council Annual Reports to Legislature: Court Interpreter Program Expenditures

Fiscal Year	Funding	Expenditures	Amount Unspent
2003-04	\$68,036,000	\$62,196,094	\$5,839,906
2004-05	\$67,735,000	\$61,358,240	\$6,376,760
2005-06	\$88,230,562	\$75,877,935	\$12,352,627
2006-07	\$85,770,000	\$83,163,606	\$2,606,394
2007-08	\$90,243,000	\$88,473,157	\$1,743,000
2008-09	\$92,793,481	\$93,705,374	<\$911,893>
2009-10	\$92,794,000	87,955,067	\$4,838,933
2010-11	\$92,794,000	89,951,954	\$2,842,046
			\$35,687,773

Court interpreters won basic employment protections and representation rights only 10 years ago, with passage of the Court Interpreter Act.⁷ It was not until 2005, however, that the courts established full-time positions with benefits in large numbers. Previously, the vast majority of court interpreters were contractors treated as contingent workers without rights or benefits, though many had spent decades serving the court system.

In a short time, the employment system has created greater stability and reliability in the delivery of interpreter services. Interpreter use and expenditure data show measurable improvements in language access and cost efficiencies.

Staff interpreters cost less overall and cover more cases per day than independent contractors. A Judicial Council report analyzing data for 2004-2008 found that, "statewide, employees interpret 16.2 percent more cases per day than contractors."⁸ Expenditure data for the same time period shows that on average, employee interpreters statewide cost the courts 10.4% less per day than contractors. The employment system is also flexible. The Courts use full-time, part-time and as-needed employees, and can supplement their needs with independent contractors.

Interpreter representatives are also actively enforcing statutes and rules of court through employment contracts that were previously unenforced, requiring courts to give priority to certified/registered employees and contractors. This has led to significant reductions in the use of non-certified and non-registered interpreters in California courts,⁹ down from 25 percent of total contractor costs for non-certified or non-registered interpreters in fiscal year 2004-2005 to 14.55 percent by fiscal year 2011-2012.

Stable employment opportunities for interpreters have resulted in efficiencies for the courts and brought greater reliability in language-access services over the past decade.

Policy makers should recognize the potential of the employment system and the current workforce of staff interpreters and independent contractors as a critical resource for meeting the language-access gap in the courts.

E. Expansion to Civil

CFI fully supports the Department of Justice's direction that courts must provide interpreters at no cost in all court proceedings, in accordance with federal law, and the DOJ's position that charging litigants for language access is discriminatory under Title VI of the Civil Rights Act of 1964. As such, we do not support the recovery of costs from individuals for language-access services.

⁷ SB371 (Escutia 2002), California Legislature, http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_0351-0400/sb_371_cfa_20010509_105137_sen_comm.html.

⁸ 2010 Language Use Study. <http://courts.ca.gov/documents/language-interpreterneed-10.pdf>

⁹ Trial Court Interpreters Program Expenditure Reports (2004-2008 and 2011-2012), Judicial Council Annual Report to the Legislature, <http://www.courts.ca.gov/2686.htm>.

Based on our knowledge and experience with statewide practices, staffing, and budget issues, we submit that much more can be done immediately to expand services to civil cases. The Judicial Council should seek funding from the Legislature to:

- conduct appropriate data collection and survey of language-access needs and resources;
- expand language access to civil cases and in other areas as necessary to comply with Title VI.

Government Code 26806 allows courts to assign interpreters to civil cases if they have been hired for criminal cases and are available for reassignment, but Courts do not have a consistent policy for providing interpreters in civil matters.

We have spoken frequently at Judicial Council meetings to express our concern that under current court policies and practices, it is not unusual for services to be denied to LEP court users even when interpreters are available in the building or even the courtroom, and therefore could be available at no additional cost. This is a matter of poorly communicated, confusing policies and inconsistent practices. At the same time, parties use friends or paid interpreters who are not qualified, some of whom misrepresent themselves as qualified interpreters. These issues will be discussed in more detail in comments submitted by our sister organization, TTIG.

Policies that continue to provide interpreters based on case type or based on fee waivers will actually prevent courts from using interpreters efficiently and can result in a continuation of practices that make language access unreliable.

Though there is no court or Judicial Council policy that affirms the obligation to provide interpreters in civil matters, many courts are providing interpreter services in civil proceedings, particularly in Spanish, but also in other languages. Current use of staff interpreters and independent contractors in civil matters is underreported.

While there are certainly unmet needs and services are provided inconsistently, in our experience court-provided interpreters are doing a significant amount of civil work around the state.¹⁰

¹⁰ **Los Angeles:** the Stanley Mosk Civil courthouse in Los Angeles has six Spanish interpreters staffing the building every day, interpreters in other languages are assigned by the court as needed, and staff interpreters around the county cover many civil proceedings.

Orange: Interpreters provided in domestic violence family law cases, and in most other civil inconsistently, as available.

Alameda: Interpreters provided in all languages for most family law cases, civil harassment and domestic violence. Interpreter provided, but inconsistently, in other civil matters including small claims and unlawful detainers.

Santa Clara: Interpreters are provided in family law matters in Spanish and Vietnamese. For other civil cases, interpreter may be provided based on judicial officer requests, however, court policy and website tell litigants to bring their own interpreter.

Madera and Merced: These courts are covering a majority of civil matters in Spanish.

San Mateo: Spanish interpreters provided in all family law matters and some unlawful detainer cases.

Napa: The court provides interpreters in all family law.

Sonoma: The court provides interpreters in family law cases involving domestic violence.

Sacramento: Interpreters provided in all languages in all family law and mediations.

Ventura: Interpreters are provided in unlawful detainers and small claims.

We recognize that many courts that cover some civil matters are providing services inconsistently and that not all matters are covered. Nonetheless, services tend to be covered in areas and languages of greatest demand, such as family law, including child support, custody and visitation, and domestic violence. Gathering reliable and comprehensive data on the level of services being provided and on the level of unmet need remains a challenge.

A 2013 survey of California superior courts¹¹ confirms that courts are already providing interpreters in many civil matters. Seventy percent of responding courts indicated that in addition to covering all “mandated” proceedings, they can provide Spanish interpreters for “non-mandated” proceedings.¹² For languages other than Spanish, just over half of the responding courts indicated that they provide interpreter services in civil matters. Geographically, one-hundred percent of responding courts in southern California (Regions 1 and 4) said they provide interpreters in civil proceedings. Fifty percent of responding courts in the Bay Area and Northern CA (Region 2), and 60% of responding Courts in the Central Valley and North (Region 3) also said they are providing interpreters in civil proceedings.

As part of legislative initiatives to provide interpreters in all civil cases,¹³ the Judicial Council has estimated the cost of expansion at up to \$25-35 million annually.

Better metrics are needed to make more realistic cost estimates. The fact that a significant number of civil matters are already being covered within the current interpreter budget has not been factored into the projections that argue that the cost of providing interpreters in civil matters will be prohibitively expensive.

Based on our experience and review of expenditure reports and current court practices, we assert the overall cost to cover interpreter services in all civil cases has been overestimated, adding to the sense that full expansion is not achievable.

According to the Judicial Council's *2010 Language Need Report*, about 147 languages are requested

¹¹ Enhancing Language Access Services for LEP Court Users: A review of effective language access practices in California's Superior Courts (2013), page 46, Conducted by the Public Law Research Institute at UC Hastings College of the Law under a grant from the State Justice Institute and the Administrative Office of the Courts. Judicial Council of California Report, February 2013 (hereafter *Enhancing Language Access, 2013 Review of CA Superior Court Practices* (2013) <http://www.courts.ca.gov/documents/jc-20130426-info3.pdf>

¹² The term “mandated proceedings” is commonly used to refer to matters in which courts recognize the requirement to provide a spoken-language interpreter for the defendant, and includes all criminal and delinquency matters including traffic, infraction, felony, misdemeanor, drug court, delinquency and dependency proceedings. “Non-mandated” case types include most civil and family proceedings. These terms are out of date and do not recognize existing state and federal requirements to provide interpreters in all court proceedings.

¹³ AB2302 (Jones, 2006)

for interpreting services in California courts. The highest demand statewide for interpreting services, in order, is for Spanish, Vietnamese, Korean, Mandarin, Russian, Eastern Armenian, Cantonese, Punjabi, Tagalog, and Farsi.

The demand for Spanish language services, however, dwarfs the rest. Spanish accounted for over 80 percent of the interpreter service days from 2004 to 2008; no other spoken language exceeded three percent. Vietnamese followed in second place at three percent while the remainder of the languages trailed at less than two percent.¹⁴

It is reasonable to conclude that the cost of expansion to cover all civil cases will be significantly mitigated by the fact that a significant portion of Spanish-language interpreter services are being covered within current expenditures.

Given all of these considerations, we do not support a phased-in approach to cover limited case types or to provide interpreters only for indigent litigants or those with fee waivers. The phased-in approach perpetuates unequal access, and is inefficient and difficult to administer.

Limiting services to specific case types or income levels results in confusion amongst court staff, judicial officers and the public about what services are provided by the court and does not allow for efficiencies and economies of scale that are possible when services are provided across the board.

Pilot Project: Making the Leap to Across-the-Board Language Access

Recommendation: The LAP should recommend a pilot project in one to three courts to fully cover civil matters following best practices and identifying efficiencies for using in-person interpreters.

We have advocated and continue to advocate for the Judicial Council to establish a pilot project to provide interpreter services across the board in all court proceedings in a limited number of pilot courts. This would be the fastest and most effective means of measuring the gap between services currently provided and actual need. It would spend down the interpreter budget surplus, and provide metrics necessary to seek and justify additional funding from the legislature.

¹⁴ Total Service Days by Language Statewide, 2004-2008 (mandated and non-mandated services)
Source: 2010 Language Need Report, Table 2.1 at p. 20.

Language	Number of Days	Percent of Days
Spanish	974,161	80.5%
Vietnamese	36,763	3.0%
Korean	18,846	1.6%
Mandarin	17,358	1.4%
Russian	15,198	1.3%
East Armenian	14,008	1.2%
Punjabi	11,093	.9%
Tagalog	9,790	.8%
Farsi	8,859	.7%

The best way to expand and protect high-quality access is to fully utilize the services of certified and registered interpreters by efficiently coordinating in-person interpreters through scheduling and calendaring practices that maximize the services of professional interpreters available to the courts. These practices have already proven successful in some courts,¹⁵ and there is significant room for improvement in maximizing existing resources in the form of in-person interpreters. Seriously undertaking these types of changes would be a much more powerful and cost-effective tool for expansion of language access than Video Remote Interpreting (VRI). The pilot should explore the potential of VRI to expand language access for out-of-court services such as Self-Help Centers.

In addition to utilizing the interpreter workforce more efficiently, the courts should work collaboratively with interpreter organizations and expand the role that interpreters play as language-access experts in the court system. Interpreters with appropriate qualifications can be a resource for:

- supervision and training of interpreters;
- training of bilingual staff and judicial officers on language-access issues;
- translation services (with appropriate quality control);
- interpretation services outside of court at self-help centers and for justice partners; and
- implementation of language-access plans at the local court level.

F. Video Remote Interpreting and Telephonic Interpreting

Recommendation: The LAP should recommend adoption of statewide, enforceable standards for VRI use in spoken languages, after careful study. VRI should be used primarily to expand language access outside of court proceedings, such as in self-help centers, family law facilitator offices, and for ancillary services working with lawyers and others interacting with LEP court users such as public defenders, district attorneys, probation officers, and legal services providers representing low-income court users.

VRI for court proceedings is a technology solution that doesn't make sense for California. Its usefulness and presumed cost-saving potential comes with considerable risk to language access and due process. It could rapidly become another expensive technology that does not deliver the promised benefit of increased language access.

The implications of using VRI in court proceedings have not been adequately evaluated here in California or by those entities promoting VRI as a language-access solution. Most of the research we have reviewed focuses on how working remotely affects interpreters. We have not found empirical evidence of claims that VRI is an effective means of providing language access, or research on the impacts of remote interpreting on LEP court users and their ability to receive meaningful access and due process. To our knowledge, these factors have not been researched or adequately considered by the National Center for State Courts (NCSC), in states currently experimenting with VRI on a limited basis, nor by the Department of Justice.

¹⁵ Enhancing Language Access Services for LEP Court Users: A review of effective language access practices in California's Superior Courts (2013), pp 18-21.

Current academic thinking suggests that further research is required on the effects of videoconference technology on communication.¹⁶ The limited research that is available raises serious concerns about the impact of video-mediated communications on due process and meaningful access.¹⁷ All of this suggests that VRI may undermine judges' and attorneys' communications with LEP parties, victims, witnesses and defendants, and restrict LEP individuals' due-process rights and access to the courts.

Further, while VRI is much touted as a tool for expansion of language access, we are not aware of any place where VRI is fully implemented and operational. The fact that it is being used and is partially implemented for some applications does not mean it works on a broad scale, nor does it demonstrate that VRI is successfully delivering the requisite level of access to protect the fundamental rights at play in the court system.

VRI is being promoted on a national level based primarily on two factors:

- 1) that it will cut costs if used broadly; and
- 2) that a shortage of competent interpreters (together with geographic distances) makes providing in-person interpreters cost-prohibitive.

While there are areas where distance or a shortage of interpreters does exist, we assert that in California these difficulties are the exception to the rule and therefore do not justify use of VRI except under exigent circumstances.

The premise that an in-person interpreter is the preferred option for providing meaningful language access is well recognized. Judicial Council guidelines for American Sign Language interpreting using a remote interpreter expressly recognize that VRI is *not appropriate* for "events where a court certified ASL interpreter is available to provide onsite interpretation."¹⁸

For interpreters there is little doubt about this. We understand from everyday experience that the human factor, our presence, is critical and allows us to provide seamless and meaningful access throughout the case, *during, before and after* the court proceeding.

¹⁶ "[...] videoconference technology should be used with utmost care and that further research on its effects is required before it can be used more widely (e.g. Poulin 2004, Federman 2006, Haas 2006, Wiggins 2006, Sossin & Yetnikoff 2007, Harvard Law School 2009)." Video-mediated Interpreting: An Overview of Current Practice and Research, Braun, S. & J. L. Taylor (2011), 29. In Braun, S. & J. L. Taylor (Eds.), Videoconference and Remote Interpreting in Criminal Proceedings. Guildford: University of Surrey, 27-57.

¹⁷ "Respondents [in immigration court proceedings] relying on interpreters had a greater frequency of problems created or exacerbated by videoconferencing and were more likely to receive negative dispositions," Harvard Law School (2009), 'Access to Courts and Videoconferencing in Immigration Court Proceedings,' Harvard Law Review, 122 (1151), 1187.

¹⁸ Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events, Judicial Council of California/Administrative Office of the Courts, 2012.

Interpreters have an ethical responsibility to continually monitor and assess their ability to provide a complete and accurate interpretation, and to report impediments to their performance to judicial officers. This is very challenging to do even when present in courtrooms because of the nature of the places where we work. Courtrooms are noisy and chaotic and speakers overlap. Interpreters understand very clearly that it will be difficult as an interpreter to assess and report impediments to performance and to hear and see adequately in order to assess our own performance. Additionally, we understand that we simply will not be as available and accessible to LEP court users as we are in person. How this will impact the LEP court user's ability to understand and participate in the proceedings has simply not been fully considered by forces promoting VRI.

A careful consideration of the current state of resources for spoken language court interpreter services shows that California has the capacity to provide in-person interpreters across the state to meet interpreter needs. Since the state has the capacity to provide in-person interpreters in the vast majority of cases, then the appropriate applications for VRI are, by extension, very narrow.

Considering that the appropriate use of VRI is very narrow, we question if installing high-quality, wired equipment in courtrooms, and providing training for court staff, judicial officers and interpreters is worthwhile to deliver second-rate access in a very limited number of cases.

The justification that VRI is necessary for certain languages, and/or due to geographic distance, could result in a system of justice where LEP court users in some language groups or geographic areas receive second-rate access compared with LEP court users in urban areas and high-population language groups. This is a formula for a dual-track system of justice with the potential for serious miscarriages of justice. Moreover, reducing the number of assignments in certain languages may very well reduce the overall availability of competent interpreters because it may mean that fewer interpreters can earn a living as court interpreters in certain languages. This is discussed in more detail in Section J of these comments on *Compensation, Recruitment and Retention*.

Proposals to implement VRI using inexpensive, portable, ad hoc technology, as is currently being proposed in the central valley courts (Region 3), are misguided and dangerous. The decision by the Superior Court of California, County of Fresno to implement VRI before there has been adequate research, and before there are standards and a statewide Language Access Plan, is disturbing. The court's proposal to use VRI for evidentiary proceedings in criminal and civil cases goes far beyond what is considered appropriate under the guidelines for American Sign Language services over VRI adopted by the Judicial Council, using grossly inadequate technology for spoken-language VRI.

Neither the courts' right to deliver services using technology nor the allure of technology solutions makes this a reasoned decision. Courts should not experiment without adequate standards and knowledge. VRI should be carefully studied and considered before any attempt to use it in court proceedings for spoken language, except in the most extenuating circumstances. The risk to due process and language access are too great, while the impacts on court users are unknown, and will not necessarily be evident.

A much better technology solution for language-access purposes would be to invest in scheduling software and case-identification and tracking solutions that would improve efficiencies in interpreter coordination.

Based on all of the above, a responsible approach to VRI would be cautious and slow, and focused on expanding language access outside of courtrooms. The Language Access Plan should make the following findings and recommendations:

1. Before implementing VRI for any court proceedings, there should be a thorough review of existing research, and a discussion of further research needed before VRI is used for spoken language in court proceedings, with a final report to the Judicial Council. VRI in courtrooms should not be implemented anywhere until this process is completed and policy makers and stakeholders have had an opportunity to review and fully consider the implications for meaningful access and due process.
2. Use of VRI should be regulated with clear and enforceable statewide standards and conditions for its appropriate use.

In our experience, courts do not follow rules well and most people confronted with decisions about language access (judges, clerks, lawyers and litigants) do not have sufficient knowledge or understanding of the issues to make good judgments or exercise discretion in a manner that protects due process and meaningful access.

3. Use of VRI for American Sign Language (ASL) does not mean that VRI is appropriate for spoken-language interpreting in court proceedings. Standards for legal interpretation in court proceedings are not the same for spoken language. The current guidelines for VRI use in American Sign Language (ASL) are inadequate because they are not enforceable, and leave too much to the discretion of the court. Even if one were to accept VRI is appropriate for ASL, this does not make it appropriate for spoken-language interpretation.
4. The Judicial Council should establish a pilot project to use VRI and telephonic interpretation to provide language access to the court system *outside of court* proceedings for communications between one LEP person and one English speaker. Appropriate uses for VRI outside of court proceedings would include self-help centers, financial hearing offices, family law facilitator services, interviews with probation, public defenders, or district attorneys, and other points of contact with the public. Mediation and psychological evaluations would not be appropriate for VRI.
5. Any remote interpreting program developed by the courts should be made available to justice partners (District Attorney, Public Defender, Probation) and legal-aid organizations that provide legal services to low-income court users, through court-partnership contracts.

Any program to use VRI for court proceedings or any other work currently performed by staff interpreters must conform with the Interpreter Act¹⁹ and labor contracts. The Act and other statutory provisions require that services provided by the court must be performed by staff interpreters or certified or registered contractors. Contracting out services to outside vendors (such as Language Line or other remote interpreting agencies) is not permissible under the MOUs except as the option of last resort in a particular language or on a particular date when no other interpreters are available, and following procedures prioritizing certified and registered contractors before outsourcing to private agencies.

¹⁹ The Trial Court Interpreter Employment and Labor Relations Act, Government Code Section 71800-71829

G. Training and Education

A much greater understanding of language access needs and issues is needed throughout our courts. A National Center for State Courts publication discusses how this affects interpreters:

Considering the very hard work and specialized cognitive and motor skills that are required to become a qualified court interpreter, the job is too often not a tempting one. [...] Although the job should be viewed, and treated, as an important one [...] it is often viewed or misunderstood in way that fails to lure potential interpreters into the job market. Too often, interpreters enter a courtroom where the judge and attorneys do not possess an understanding of the ethical and professional responsibilities of the interpreter.²⁰

Among the greatest challenges interpreters face in serving the public is a lack of sensitivity to the challenges of overcoming linguistic barriers and a lack of awareness about conditions that interpreters and LEP court users need to facilitate communication and full participation by LEP court users.

Training and education should be among the highest priorities in the LAP. The Judicial Council should establish required training and timelines for completion. Training is needed for judicial officers, attorneys, interpreters and court staff.

Training should be consistent statewide providing a standardized curriculum based in the DOJ guidelines and ABA standards including:

- a. General knowledge of interpreter competence standards, which will help those working with interpreters understand the need to use competent interpreters and provide conditions necessary to ensure meaningful access. Training should cover appropriate modes of interpretation, qualifications of interpreters, procedural requirements, and recognized standards for legal interpreting (legal equivalence, complete and accurate, preservation of register) and cultural competence.
- b. Early identification of language-access need and proactive offering of available services.
- c. Efficient use of interpreters (requests, scheduling, prioritization of cases).
- d. Bilingual staff: training in legal terminology, basic language access, and differentiating between interpreting and serving the public in another language.
- e. Judicial officers and court staff should receive cultural-competence training and an increased understanding of language access as a civil right along with the language-access requirements under state and federal law.

²⁰ *Wanted: Career Paths for Court Interpreters*, Romberger and Hewitt, National Center for State Courts. Ms. Romberger is a manager of interpreters services. William E. Hewitt is a Principal Court Research Consultant at the National Center for State Courts. Article from *Future Trends in State Courts 2006*; court interpretation; human resource management. <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/accessfair/id/132>

H. Competence and Qualifications

Recommendation: Courts should use only certified and registered interpreters for all court proceedings and court-ordered ancillary services that have an impact on a case including, attorney-client interviews, mediations, psychiatric evaluations, probation interviews and any other court-ordered programs.

Government Code Section 68561 already establishes this standard for all court proceedings (including depositions). In 1992, the Legislature directed the Judicial Council to establish standards for certification, ethics and continuing education (SB1304, Lockyer). These measures responded to serious miscarriages of justice caused by the use of untrained and incompetent interpreters. These problems were widely reported in the press only two decades ago.²¹

The Language Access Plan should be consistent with existing law in this regard, maintaining the high standards that California has achieved, and not fall prey to the argument that in order to expand services, it is necessary to lower standards or sacrifice quality.

The LAP Working Group would do well to heed the recommendation by Holly Mikkelson in written comments submitted to the working group. Mikkelson, co-author of the authoritative academic text on court interpretation,²² and a leading trainer and educator in the field of legal interpreting, emphasizes the importance of using certified interpreters in all court proceedings:

It has long been accepted that interpreting court proceedings is an extremely difficult and complex task that cannot be left to individuals whose skills are deficient, which is why the State of California pioneered certification exams for court interpreters in 1979, soon followed by the federal courts and many other state court systems. [...] The State of California would tarnish its reputation as a leading light in guaranteeing civil liberties if it were to detract from this achievement by condoning the use of inferior interpreters in civil proceedings. I urge you to uphold the highest standards of quality when addressing the needs of some of the most vulnerable members of our population.

Recommendation: High standards for proficiency should be established for bilingual staff providing services directly in a foreign language and training should be provided to bilingual staff.

Providing direct bilingual services should be distinguished from using bilingual staff to act as ad-hoc interpreters. Interpreting is a separate skill requiring specialized knowledge and adherence to a code of ethics. Bilingual staff should not be used as ad-hoc interpreters in settings outside of court proceedings unless they have specific qualifications and training as interpreters. The courts should explore the possibility of using certified interpreters to train bilingual staff to provide interpreting services for basic communications outside of courtrooms in areas where highly skilled and tested interpreters are not required.

²¹ "How Court Interpreters Distort Justice," Miranda Ewell and David Schrieberg, San Jose Mercury News, December 17, 1989.

²² Fundamentals of Court Interpretation: Theory, Policy, and Practice, Roseanne Dueñas Gonzalez and Holly Mikkelson.

Recommendation: Use of certified court interpreters should be maximized and court interpreters should be used for additional language-access services beyond the court proceedings and ancillary services.

Court interpreters currently provide a significant amount of language-access services outside of courtrooms including attorney-client interviews; witness preparation and interviews; sight translation of paperwork received in court after the proceeding is over; or interpreting for LEP parties as they comply with court-ordered aspects of a case such as signing up for fine payments or completing a post-court interview to review probation conditions for their children. This level of service provides continuity and maximizes the LEP court users' ability to understand the process and comply with orders and procedures.

Courts should conduct a study of the LEP court users' needs *before, during, and after* court proceedings and work with administrators, judges, and interpreters to identify efficiencies and maximize the use of certified interpreters throughout the process to ensure complete and meaningful language access.

Certified interpreters could also be available by phone or video connection for a range of basic communication needs outside of courtrooms. This would allow for high-quality service at a reasonable cost, and would permit courts to fully utilize their interpreter resources. This approach will provide greater continuity and consistency in services, and is more realistic than developing multiple levels or tiers of language-access providers at all levels of the court system.

CFI does not support the use of tiered system with different levels of skill for different types of interpreting in court proceedings. All court proceedings and ancillary services require a highly skilled interpreter with a high level of proficiency in both languages. This is fundamental to any type of interpreting, and there should be no distinction between the level of proficiency required by case type (i.e. misdemeanors, felonies, civil, criminal, etc.). In order to interpret accurately, an interpreter must be highly skilled and proficient regardless of the case type. Additionally, experience tells us that courts will not consistently maintain the limitations established for different tiers and will find it easier to call in a less qualified interpreter who is at hand than to wait for, or seek out, a more qualified interpreter. A tiered system adds layers of complication and would be less efficient administratively, since it would require developing, scheduling and managing different levels of interpreters. It is more straightforward to require interpreters to meet a minimum standard for court and then use them as efficiently as possible to meet the courts' overall interpreting needs in settings that require a competent interpreter.

We see the value of having a system that perhaps designates master level interpreters who are federally certified or have a Masters degree and are recognized as super qualified. However the current level of certification for court proceedings should remain the *minimum* qualification for working in any court proceeding or other complex or sensitive communications outside of court proceedings.

Other communications in the court system can be provided by a mix of well trained and tested bilingual staff, remote interpreters who are trained and tested (including staff interpreters and contractors), and certified court interpreters whose services can be efficiently coordinated.

Recommendation: The Language Access Plan should recommend the establishment of a statewide translation program that uses qualified translators and provides for quality control and sharing of translation resources among courts.

The translation program should establish qualifications to do translation work and identify certified staff interpreters who are also qualified as translators. Establishing interpreter/translator positions would permit the courts to better utilize the skills of the existing workforce of highly skilled interpreter/translators, and to create efficiencies in the use of language access resources.

Recommendation: The Language Access Plan should recommend a strict prohibition on using non-professional interpreters in court proceedings including children, family members, or friends. The good cause clause should be re-examined, modified or eliminated to ensure that certified interpreters are used in all court proceedings.

When litigants and attorneys are required to provide their own interpreters they are more likely to rely on non-certified, non-professional interpreters. Having courts provided interpreters for all matters should reduce this practice, however there will continue to be occasions when LEP court users are not identified in advance and the Court is faced with a request to use a non-interpreter. Use of family members, friends or non-professional interpreters (brought by litigants or volunteers from the audience) should be prohibited in all court proceedings, and court staff and judicial officers should receive training on the reasons this practice is unacceptable.

The good cause clause under G.C. Section 68561 allows courts to appoint non-certified interpreters under certain circumstances. It was intended to ensure that courts only appoint non-certified interpreters when good cause is established, and only after a diligent search confirms no certified interpreter is available, or when there is some urgency related to the proceedings, such as the need for a protective order. However, the finding of good cause under this provision has become a routine practice in some courts, where it is overused without following requirements for diligent search, qualification of non-certified interpreters, and findings on the record.

J. Compensation, Recruitment and Retention

Recommendation: The LAP should recommend that the Judicial Council and courts continue to invest in the interpreter workforce, conduct a study of interpreter wages in California, implement a wage step system and promotional opportunities to make a career as a court interpreter attractive and competitive with other sectors that need the skills of trained language professionals.

Certified interpreters in California are tested, highly skilled professionals held to high standards of competence, and must comply with ethical codes and continuing education requirements. Compensation and job opportunities in the courts have not kept pace with the demand for these skills, however, and working for the courts is not competitive in the job market for these skills.

Court interpreting is a relatively young profession, and until the last decade, interpreter services in California were provided almost exclusively using a contingent workforce. Low wages in the courts compared to the other sectors, a lack of promotional opportunities, and insecurity have characterized this work and continue to be an issue despite improvements created by the employment system.

According to a National Center for State Courts publication,²³ “It is difficult to imagine that a highly qualified individual will strive to enter a job market that is sporadically needed and fails to provide a reliable living. Interpreters, like other professionals, must find jobs that pay enough and offer some incentive for growth and development in the field.”

Although standards for competence are high and the workforce began to professionalize by the early nineties, pay remained flat for a decade, and interpreters worked without protections or security. Not surprisingly, the courts have traditionally struggled to attract and retain enough skilled interpreters.

Statewide, interpreter wages have remained stagnant for periods of up to ten years at a time. Most courts have paid little attention to quality and recruitment, and use of non-certified interpreters was persistent. Across the state, interpreters began organizing in the mid nineties and demanded wage increases. The Judicial Council increased wages statewide between 1998 and 2000, and in 2003 the Trial Court Interpreter Employment and Labor Relations Act gave interpreters the opportunity to have benefitted jobs, leading to greater stability and reliability in interpreter availability. As a result, the use of non-certified interpreters has dropped significantly over the past decade.

Stable jobs and regular wage growth are demonstrated to be effective for creating a more stable workforce. Historically, steady work and higher wages (compared with the rest of the state) were a factor in the Los Angeles Superior Court developing among the largest and most skilled pool of interpreters in the country during the late eighties and early nineties.²⁴

While we have seen improvement in the availability of interpreters generally, the need to increase the number of certified interpreters in certain relatively high-use languages remains a challenge, as does providing language access for less frequently used languages and in rural areas.

Court interpreter wages have stagnated again recently during the economic recession, and most interpreters (both employees and contractors) have not seen a wage increase in more than seven years.

²³ *Wanted: Career Paths for Court Interpreters*, Romberger and Hewitt, National Center for State Courts. Ms. Romberger is a manager of interpreters services. William E. Hewitt is a Principal Court Research Consultant at the National Center for State Courts. Article from *Future Trends in State Courts 2006*; court interpretation; human resource management. <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/accessfair/id/132>

²⁴ The court had a high demand for interpreters and used many Spanish interpreters on full-time basis. During this period, the Los Angeles Superior Court also offered a high-quality training and recruitment program, good working conditions, regular salary increases and the highest wages in the state. The use of non-certified interpreters was very low. The court's approach to language access changed for the worse with a change in administration in the early nineties, however, and things went downhill with stagnant wages and worsening working conditions.

Certified legal interpreters in all languages are in high demand in a marketplace that includes the federal courts, state agencies, and the private market, among others. Staff salaries and per-diem rates in the state courts are low in this marketplace.

- Working in legal depositions, certified interpreters earn double to quadruple the state court rate.
- The federal court daily per-diem rate is 37% higher than in state court (\$388 for a full day in federal court vs. \$282 for a full day in state court).
- Federal court salaries are 25-50% higher than California's and go up with experience.²⁵
- Other professionals with comparable skills, education and experience working in the courts earn substantially higher salaries than state court interpreters.²⁶

Courts must continue to invest in the interpreter workforce to keep pace with demand and to expand services as required under Title VI. In addition to making the job more attractive in terms of compensation, this means recognizing the need to:

- develop a career path and promotional opportunities for interpreters; and
- develop creative solutions such as sharing resources among courts and with other legal interpreting consumers.

It is unlikely that highly proficient, capable bilingual individuals will be motivated to become qualified court interpreters, and aspire to a job where work is sporadic, with low pay and benefits. Yet full-time benefitted jobs for interpreters in languages of lesser diffusion are few and far between. Even where they do exist, the pay is not competitive enough to attract certified interpreters in these languages.

The Interpreter Act provides for a cross-assignment system in which court interpreters are shared by several trial courts, and receive their pay and benefit eligibility from a single employer. This system has experienced limitations because of logistical and bureaucratic challenges that should be improved.

Improvements in the cross-assignment system, and investment in a reasonable number of full time positions for interpreter/translators in key languages could go a long way toward filling important language-access needs. Regional positions are explicitly provided for in the Interpreter Act, but no region or court has pursued this option since the Act was implemented in 2003.²⁷

²⁵ Federal Court Interpreter Annual Salary: \$89,000-\$140,000 depending on location and experience.

²⁶ *San Francisco Superior Court Salary Schedule*, (Sept. 2010), Superior Court of California, County of San Francisco, <http://www.sfsuperiorcourt.org/sites/default/files/pdfs/1916%20Salary%20Schedule.pdf>.

Court Interpreter: \$73,727 (no increases or steps for experience)

Senior Deputy Clerk: \$70,757-\$86,000

Court Paralegal: \$72,349- \$83,729

Court Reporter: SF: \$104,557-\$110,821

Court Investigator: \$87,513- \$101,294

²⁷ Government Code 71810(c)

To further address these issues, the LAP should recommend, and courts and the Judicial Council should consider:

- adopting wage differentials in languages with high demand and low supply;
- establishing full-time positions with a higher salary range or other incentives to attract interpreters in key languages; and
- developing training and recruitment programs in languages with persistent shortages, providing workshops through the Administrative Office of the Courts with language specific training by certified interpreters.

Finally, courts and other justice partners and consumers of interpreter services need to evolve in their thinking, and recognize that to create sufficient work and incentives for competent interpreters, pooling demand and sharing interpreters across agencies makes sense and will create the job pipeline that is absolutely necessary to increase access to competent interpreters. While there might be a collective demand for one or more full-time, qualified interpreters across several agencies, there is no collaboration between offices or recognition of the potential benefits to collaboration.

A National Center for State Courts publication recommends:

Courts must learn that once an interpreter is tested and certified, it is important to hang on to that interpreter, to consider ways to make the interpreter available when the courts need him or her, and to keep the interpreter busy enough to make a living interpreting. A public service interpreter resources center may be a solution. The solution would share interpreter resources with other offices in the courthouse, with other jurisdictions, or with other public service agencies and governmental offices, creating enough work to keep the interpreter available and meeting the needs of multiple offices or agencies. [...] To share resources successfully, the demand for interpreters must be pooled into a single, coherent system, organized in a single place. By centralizing the demand and organizing the scheduling process, the quality of the services provided can be improved and the availability of interpreters can be increased.²⁸

Such a system has the potential to allow sharing of professional legal interpreting services for courts and ancillary services, such as public defenders, district attorneys, court appointed counsel, probation officers and legal services providers who represent indigent court users to share the services. This would create a reliable source of services and alleviate each agency maintaining and expending administrative efforts. Creating such a resource center would require a highly organized and centralized scheduling process.

Based on our experience and on-the-ground knowledge of courts across California, we submit that the shortage of competent interpreters is not dire as it once was, and that much more can be achieved by evaluating what can be done using existing resources --namely the existing workforce which includes staff interpreters and independent contractors.

²⁸ *Wanted: Career Paths for Court Interpreters*, Romberger and Hewitt, National Center for State Courts

K. Conclusion

We appreciate the opportunity to provide comments and again offer ourselves as a resource and ally in achieving a historic expansion of language access in California through the development and implementation of the statewide LAP.

We thank the Working Group for taking up this challenge and urge you to aim high and make quality of services the paramount concern as you finalize your recommendations.

We hope our input convinces you that the shortage of interpreters is not as dire as it once was, and that the LAP should not be built around assumptions of scarcity. With a reasonable investment of additional resources and efficient management, expansion of interpreter services to all civil proceedings and greater language access throughout the court system is achievable.

An analysis of what it would cost to expand services must take into account that many courts in California are already providing interpreter services, regularly, in many civil matters.

A careful and data driven reevaluation of these factors should lead the Working Group and the Judicial Council to conclude that a more rapid and complete expansion of language access is possible, and will provide the metrics necessary to pursue funding and support for policies that establish high standards for language access services in California's court system.

California's size and diversity call for a plan that is tailored to this state and its circumstances. The LAP should ensure that California remains a leader and becomes an example of how to provide language access throughout the court system without sacrificing quality, meaningful access and due process.

Certified and Registered Interpreters in California³⁰

	1995	2000	2005	2007	2014	Change since 2000 (or year of available data)	Average service days per year ²⁹
Spanish	1526	988	1088	1095	1282	+ 30%	167,744
Vietnamese	47	36	38	37	44	+ 22%	6,968
Korean	32	36	55	59	62	+ 72%	3,687
Mandarin	--	--	--	20	61	+ 67%	3,143
Russian	--	--	--	19	36	+ 89%	2,753
Armenian	--	--	--	8	15	+ 87%	2,493
Cantonese	31	22	23	23	27	+ 23%	2,117
Punjabi	--	--	--	--	2	---	2,083
<i>Farsi</i>					54	---	1,768
Tagalog	7	5	3	3	4	(-20%)	1,645
<i>Hmong</i>					10	---	1,523
Khmer	--	--	--	--	3	---	1,191
<i>Laotian</i>					13	---	861
Arabic	10	9	12	15	10	+ 11%	794
Japanese	10	8	12	13	13	+ 62%	655
<i>Mien</i>					3	---	570
Portuguese	2	4	7	8	6	+ 50%	328
Top 17 Languages (98.5% of usage)					1645		
72 other languages (1.5% of total use)					342		
Total Certified	1665	1108	1238	1347	1565	+ 41%	
Total Registered	--	--	--	237	422	+ 78%	
Total All Languages					1987		

²⁹ Judicial Council 2010 Report to the Legislature on Language Use in the Courts, usage based on average number of services days over a 4-year study period (2005-2008).

³⁰ Source: <http://www.courts.ca.gov/3796.htm>, Judicial Council Interpreter Search database. Numbers are approximate because some interpreters are listed more than once under different languages. Historical numbers come from CFI Report to the Legislature, *Realizing the Goal of Equal Access to the Courts: Increasing Access to Competent Interpreters*, November 2008.

Interpreter Supply and Demand- By the Number 17 Most Used Spoken Languages³¹

Language	Certified /registered interpreters 2014	Average service days per year ³²	Service days per interpreter ratio ³³	No. FTE by service days ³⁴	Interpreters to FTE ratio ³⁵
Spanish	1282	167,744	130 to 1	645	2 to 1
Vietnamese	44	6,968	158 to 1	27	1.6 to 1
Korean	62	3,687	59 to 1	14	4.4 to 1
Mandarin	61	3,143	51 to 1	12	5 to 1
Russian	36	2,753	76 to 1	10	3.6 to 1
Armenian	15	2,493	166 to 1	14	1.1 to 1
Cantonese	27	2,117	78 to 1	8	3.4 to 1
Punjabi	2	2,083	1042 to 1	8	.25 to 1
<i>Farsi</i>	<i>54</i>	<i>1,768</i>	<i>33 to 1</i>	<i>7</i>	<i>7.7 to 1</i>
Tagalog	4	1,645	411 to 1	6	.7 to 1
<i>Hmong</i>	<i>10</i>	<i>1,523</i>	<i>152 to 1</i>	<i>6</i>	<i>1.7 to 1</i>
Khmer	3	1,191	397 to 1	5	.6 to 1
<i>Laotian</i>	<i>13</i>	<i>861</i>	<i>66 to 1</i>	<i>3</i>	<i>4.3 to 1</i>
Arabic	10	794	79 to 1	3	3.3 to 1
Japanese	13	655	50 to 1	2.5	5.2 to 1
<i>Mien</i>	<i>3</i>	<i>570</i>	<i>190 to 1</i>	<i>2</i>	<i>1.5 to 1</i>
Portuguese	6	328	55 to 1	1.3	4.6 to 1
Top 17 Languages (98.5% of usage)	1645	200,323	122 to 1		
72 other languages (1.5%)	342	2998	9 to 1		
Total Workforce	1987	203,321			
Total Certified	1565				
Total Registered	422				

italics = registered language (all others are designated languages requiring certification)

³¹ These 17 languages represent 98.5 percent of language services.

³² Judicial Council 2010 Report to the Legislature on Language Use in the Courts, usage based on average number of services days over a 4-year study period (2005-2008).

³³ The greater number of service days per interpreter indicates a higher demand for services to supply of interpreters.

³⁴ 260 service days equals one full time equivalent position (FTE).

³⁵ The lower the number of interpreters per FTE, the greater the shortage in that language.

Denton, Douglas

From: Harry Dorfman [REDACTED]
Sent: Wednesday, April 16, 2014 4:45 PM
To: Denton, Douglas
Subject: Certified Interpreters at Restraining Order Hearings

TO THE MEMBERS OF THE JOINT WORKING GROUP FOR CALIFORNIA'S LANGUAGE PLAN:

I am a Superior Court Judge in San Francisco currently handling civil restraining order hearings (Dept. 514 at the Civil Courthouse).

I want to bring to your attention an issue of access to justice that regularly comes up in these hearings.

Parties who speak other languages should believe in the fairness of the process, as well as members of the public who happen to watch the hearings. Understanding the proceedings is fundamental for believing in the fairness of the courts and maintaining confidence in the courts.

A diverse community like San Francisco has people who speak many languages, especially Spanish and Cantonese.

Restraining order cases often involve Spanish speakers and Cantonese speakers as petitioners and/or respondents.

Restraining order cases almost always involve an allegation by the petitioner that the respondent committed some type of criminal conduct in word and/or deed (and some times the respondent counters that the petitioner did something criminal!). Therefore, the parties need to know exactly what the claims are.

99% of the time these parties bring a friend, or family member, to act as the interpreter for the case.

I ask each interpreter "How long have you been speaking Spanish (or Cantonese)?" The answer usually is "All my life." I go forward with the hearing.

Untrained interpreters usually need prodding to do what a trained interpreter does: interpret *everything* being said in court to guarantee a fair hearing.

A fair process really calls for professional, certified interpreters in my opinion. A fair process requires a good, reliable record in case review is necessary.

In San Francisco the restraining order hearings take place two mornings each week 9:00-12:00 Wednesday and Friday.

6 hours total.

In my opinion, funding two interpreters for 6 hours would significantly improve access to the courts and justice.

If I can provide any further information or address my request to any other group, please let me know.

Thank you for considering my request.

Harry Dorfman, Judge of the Superior Court, County of San Francisco
Dept. 514
[REDACTED]

To: Working Group on California's Statewide Language Access Plan

Re: Comments from the The Translator's and Interpreters Guild (TTIG)

We appreciate the opportunities we've had to speak with the Working Group in January and at the Public Hearing of March 13, 2014; we submit these written comments to once again highlight our key concerns and solutions that should be addressed in the Language Access Plan.

1. Only Certified Court Interpreters Should be Used in Civil Court and Ancillary Services.

The importance of Court Certification in Civil

Legal interpretation in civil matters is equal to if not more difficult than interpreting in criminal cases. In civil matters the interpreter encounters a wide array of terminology, from a real estate or business contract and its jargon, to a construction site situation, to wrongful termination and sexual harassment in the workplace. This vocabulary must be at the tip of our tongues, with the ability to handle a broad range of subjects fluidly. Certification is a necessity for civil cases is a necessity so that all concerned can rely on competent interpreters, the judge, the attorneys, and the LEP court users. Many courts have commented on the difference it makes when they have a well-trained interpreter in the courts.

Another issue we've mentioned is the misuse of non-certified Interpreters in lieu of the Court Certified. Possible reasons that have been reported and observed:

- Judges and court personnel are not aware that the interpreters are not certified when they go before the court.
- Non-certified interpreters state their name on the record and "oath on file," misleading the court; by law only certified interpreters may have an oath on file.
- Attorneys and LEP court users are unaware that certification is required, or they are misled into thinking that the interpreter is court certified by either the agency they use or the actual interpreter.
- Interpreter is committing "fraud" by using another interpreter's certification number.

Solution:

- When the interpreter goes before the court, he/she should give their name, certification status and number, and "oath on file" if applicable.
- Judges and court staff should be trained to understand that numbers that start with 300 indicate Court Certified, while numbers that begin with 100 are not.
- Interpreters should be required to show their badge that includes their photograph and pertinent information.

Providing Certified Interpreters for Ancillary Services

Critical interpretations take place in ancillary services related to criminal and civil processes that must be handled by a professional and highly qualified interpreter or translator.

In criminal matters, for example, initial contacts between the defendant, victim or witness with the police, the district attorney or public defender.

- Members report frequent examples of cases being negatively impacted and court time wasted because the police interrogation and/or the transcription was interpreted or translated by a bilingual police officer or unqualified translators with critical mistakes. In Ventura we have documented at least two trials that were affected by these mistakes.
- Public Defender/client interview. In Los Angeles County students from an interpreting school are the interpreting these interviews and without proven qualifications and without any supervision by a “mentor” to make sure the interpretation is accurate. This is an area that was previously covered by court-provided interpreters, a practice that was suddenly halted with no explanation.

In civil matters, a certified interpreter should be used for mediations and other sensitive communications that are related to the proceedings.

2. Independent Contractor Representation in the Advisory Panel and LAP Working Group

Independent contractors need representation on the Court Interpreter Advisory Panel and the LAP Working Group. Our input is vital to assist in the issues that we encounter in the courts and the possible solutions that we may offer. Many independent contractor interpreters are currently working in the courts and their concerns and ideas should be included.

3. Raise in the Per Diem Rate

Independent contractors have not had a raise in the per diem rate in over seven years. As independents, we pay a self-employment tax; we pay for our own disability and medical insurance. Employee interpreters are beginning to ratify new contracts with the courts that include a raise in their pay. Independent contractors should be considered for one as well. We would refer you to CFI’s written comments that discuss retention and recruitment, and the fact the courts will not be able to attract and retain professional, skilled interpreters if there is no opportunity for wage growth.

A raise in the per diem rate is long overdue and will attract more court certified interpreters who are prioritizing the private sector in lieu of the courts. Federal Interpreters have received regular raises in their per diem in accordance with the cost of living rate, which is currently 37% higher than the state rate.

4. Conclusion

We want to thank the Working Group for all of the opportunities thus far to communicate with you and express our opinions and our desire to work collaboratively with you to find solutions that will benefit LEP court users and the courts.



May 7, 2014

Via Facsimile & U.S. Mail

Joint Working Group for California's Language Access Plan
Judicial Council of California – Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688
f. (415) 865-4586

Re: ACLU Comments on Language Access in California's Courts

Dear Judicial Council:

Over the last several years, community members have shared concerns regarding court interpreters with the American Civil Liberties Union affiliates in California. When we learned that the Judicial Council is reviewing and developing the California courts' Language Access Plan, we reached out to some of those community members to document the concerns for this Joint Working Group. While there are some variations, community members from different locations shared similar core concerns, namely that interpreters offer legal advice and limit the statements made by court participants, either by admonishing them not to make certain statements or by failing to translate fully. The areas from which we gathered comments are San Joaquin, Merced, and Tehama Counties.

San Joaquin County Superior Court

Spanish interpreters in the San Joaquin County courts, including Stockton and Manteca Superior Courts are reported to:

- Offer legal advice, sometimes unsolicited, to Latinos awaiting hearings, including:
 - Suggesting that defendants plead guilty and take a fine in order to avoid scrutiny into immigration status;

- Probe parties for case information prior to seeing a judge and provide opinions on what parties should do;
- Limit parties' communications with the court, including by:
 - Telling parties the judge does not have time to hear or answer questions,
 - Suggesting comments parties would like to make are idiotic and unnecessary, and
 - Not completely translating the parties' and judges' comments.

Merced County Superior Court

Court appointed interpreters in Merced County have been observed conferring with and offering inappropriate advice to parties in advance of court hearings, including:

- Advising defendants to plead a certain way;
- Advising defendants not to make certain statements or contest aspects of the proceedings while in front of the judge; and
- Offering other legal advice, such as suggesting to a mother in family court that she seek limits on a father's visitation rights and request increased alimony payments.

In addition, our contact in Merced County highlighted the need for interpreters for small claims and family court. She noted that interpreters are not available to most individuals in small claims and family court proceedings, with detrimental impact particularly on low-income minority groups.¹ First, justice is delayed because hearings must be postponed to allow participants to secure interpreters. Second, informal interpretation provided by family members or friends is insufficient because the interpreters are often unable to explain complex legal terminology or otherwise offer an accurate translation of documents, testimony, and statements from the court. Untrained interpreters are unable to accurately articulate the content and import of claims or orders to show cause, for example, undercutting the due process available to parties with limited English proficiency.

¹ According to Merced Superior Court Local Rules, interpreters will not be provided for civil and small claims matters, unless otherwise ordered by the court. Local Rule 5, dated July 1, 2013, available at http://www.merced.courts.ca.gov/files/RulesOfCourt_2014.pdf.

Tehama County Superior Court

The Tehama County Superior Courts in Red Bluff and Corning have had ongoing problems concerning inadequate provision of translation services for individuals in traffic, juvenile, civil, and criminal court. Examples of the problems community members have experienced or witnessed include:

- The interpreter not directly translating what parties would like to communicate to the judge during the hearing; and
- The interpreter providing legal advice about specific cases before hearings and persuading defendants to plead a certain way.

Conclusion

The concerns raised in this letter have not come to our attention through any concerted effort by the ACLU of California to address the needs of language minorities in the courts or elsewhere. Instead these strikingly similar complaints arose organically from geographically diverse community leaders we have worked with on various projects. Given the nature of the population to whom these translation services are provided—frequently low-income and unrepresented by counsel—it is not surprising that court interpreters may be inclined toward “helping” them navigate the court system. But when court interpreters answer legal questions, give legal advice, or limit a party’s communication with the court, they far exceed their proper function and undermine due process.

We recommend that the Language Access Plan include several components to address the concerns raised in this letter. It is clear that more interpretation services are needed for participants in non-criminal court. In addition, guidelines for court-appointed interpreters should be reviewed to ensure that all parties have access to competent and appropriate interpretation services. Both judges and interpreters should be reminded and trained on the appropriate roles of interpreters and audits should be conducted in all county courts to ensure that interpreters stay within appropriate professional boundaries of service. Because the need for information about one’s legal rights and court processes is important to non-native English speakers but inappropriate for interpreters to provide, we recommend that the Language Access Plan include provision of legal orientation materials and consultants for non-English speakers.

Judicial Council of California

May 7, 2014

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Thank you for your ongoing work to improve language access to California courts, and please do not hesitate to contact me if you have any questions or seek additional information. You can reach me at (415) 621-2493, ext. 339 or jmass@aclunc.org.

Sincerely,

A handwritten signature in black ink that reads "Julia Harumi Mass". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Julia Harumi Mass

Senior Staff Attorney

American Civil Liberties Union Foundation of Northern California

39 Drumm Street

San Francisco, CA 94111

DATE: MAY 28, 2014

TO: Douglas Denton, Senior Court Services Analyst

Court Language Access Support Program

My name is José A Navarrete, and I am a full-time, certified Spanish interpreter at the Santa Barbara Superior Court. Ten years ago I made the decision to be a full-time public servant, and dedicate my linguistic talents to the criminal and civil courts. I hereby express my input and opinions on the CALIFORNIA COURTS STATEWIDE LANGUAGE ACCESS PLAN, with the hope that you will include them on public record.

Honorable members of the Judicial Council and the California Supreme Court, I appreciate your consideration of the following points:

- During the March 2014 Public Hearing in Los Angeles, I was disappointed over the lack of attendance and participation of actual Court Interpreters, those professionals who are truly on the front lines of Language Access. The panelists at the hearing should have been made up of Court Interpreters from a variety of jurisdictions, regions and interpreter-types so that the public can actually understand how language access works on a day to day, county to county basis. Ariel Torrone and the California Federation of Interpreters (CFI) could not possibly represent the insights and opinions of all Court Interpreters across the state; CFI/CWA are a dysfunctional organization that do nothing but tax my wages and deny me my right to active collective bargaining. Legal resource centers are not language providers, neither are the court administrators that “supervise” Court Interpreters. Only trained and certified Interpreters are qualified to provide language services. Who will have to buy into and execute this Plan across the state, ultimately? Court Interpreters...who should have been ordered to attend these and future hearings. This type of professional/institutional reflection should be compelled as part of a thoughtful curriculum of continuing educational activities.
- The possible consideration of tweaking the legal standards for providing Language Access is completely outrageous. Qualified and trained interpreters should be provided at every level of government and the court system, in and out of, and around the courts. It is wrong to even consider revising rules and statutes that guarantee constitutional rights. There are so many agencies and entities that operate around the court system who ALREADY employ legions of untrained, non-certified bilingual staff to provide “language services”, including Public Defenders Offices, District Attorneys Offices, Police and Sherriff departments, Child Welfare Services, Child Support Services, Family Law Offices, Department of Motor Vehicles, Probation Departments, etc.....please do not

further devolve the quality of language services. (Please do not further devolve and dumb down the Spanish language) Again, Court Interpreters should be institutionally empowered to lead the way California provides language services in general. We can take advantage of the legions of “bilingual” staff at all these entities, but only under the direct supervision and training by real Court Interpreters.

- There is a lack of consistency on translations. A brief overview of the very materials provided at the Language Access public hearings reveals a poor translation into the Spanish language. This happens all over the place, under the disingenuous argument and helpful guise of wanting to reach out to a plain-spoken populace. It is so insulting when the assumption is made that the Latino (read: poor and Mexican) community will have a hard time understanding a faithful interpretation/translation in their own language; therefore we must dumb down the Spanish to target a lower class of people. Aside from anecdotal tidbits and fleeting conjecture, it is actually impossible to assess the entire ken of an individual, as Knowledge can be acquired in a variety of ways—let alone the ken of a heterogeneous Latino community. For instance: a little study and research will tell you that the term “Corte” is totally incorrect in our local, legal context. The proper terms are TRIBUNAL, JUEZ, JUZGADO, or JUDICIAL, depending on context. The continued and rampant use of “Corte” and a great many other Spanglish words only creates a lack of uniformity and a depressing form of cultural mediocrity. What message does this send to the many children and general persons who dedicate their time and energy to the proper, formal study of Spanish as a foreign language? We practice and study the law in English in California—a modern English that must be precise and deliberate, therefore practiced by trained professionals called attorneys who are qualified to explain legal concepts to English-speaking laymen. The only way to provide true Language Access is to render faithful translations of the material, and not make stereotypical assumptions about entire communities. The only professionals trained for such a task are Certified Court Interpreters, and translations that issue from every state government office should be an extension of their duties.
- Court Interpreters need to be formalized under an oversight body similar to the State Bar for attorneys. Higher Education/Academia needs to work jointly with the courts and other agencies to ensure proper recruitment, retention and support for the profession. The State Certification Exam has been watered down, creating a second class of court interpreter in California. This awful tier system has only created division and inconsistency among interpreters. The rigors and demands of the State Exam, as they existed 10-12 years ago need to be restored at once. The Continuing Education system needs to be formalized under a strategic curriculum, not a hodgepodge of expensive providers that merely impose another tax on the hapless interpreter. There has been a Code of Ethics for a long time, and it needs to finally be enforced. Lackluster and negligent interpreters need to be held accountable. We need Court Interpreters as leaders, working within the system to enforce the code.

- What we don't need is another well-paid, non-interpreter administrator to "coordinate" Language Access for the entire state, an over-ambitious position created in September of 2013. It is ridiculous to rely on ONE person to oversee a complicated issue like this for all 58 counties of the state. We already have a corps of language service providers—COURT INTERPRETERS—who should be empowered to lead a true Language Access program at the local and regional levels. That's where it counts. We are your public servants—you should trust us, and take advantage of our expertise.

Respectfully,

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