

July 29, 2005

Merrily A. Friedlander, Chief
Attn: Language Access and Law Enforcement
U.S. Department of Justice
Civil Rights Division
Coordination and Review Section – NYA
950 Pennsylvania Avenue, NW
Washington, DC 20530
Via Fax: (202) 307-0595



Re: LANGUAGE ACCESS AND LAW ENFORCEMENT

Dear Ms. Friedlander:

We appreciate this opportunity to share with the Coordination and Review Section of the Civil Rights Division our comments regarding law enforcement and limited-English proficient (LEP) residents. We applaud the U.S. Department of Justice's continued commitment to enforcement and implementation of Title VI of the Civil Rights Act of 1964, Executive Order 13166, and the LEP Guidance Policy.

CAA | Center for Asian American Advocacy/Chinese for Affirmative Action is a 36-year-old, membership supported, civil rights organization based in San Francisco that advocates on a wide range of civil rights issues affecting Asian Pacific Americans and immigrants both locally and statewide. CAA has developed expertise in language access issues through its advocacy on behalf of limited-English proficient communities in San Francisco and throughout California. CAA was instrumental in the passage of San Francisco's Equal Access to Services Ordinance, which requires city departments to provide meaningful access to LEP residents. CAA also works closely with state and local policymakers to provide technical assistance on implementing language access plans and ensuring monitoring and enforcement of legal obligations to provide meaningful access to all residents regardless of language ability.

The Law Center for Families is a not-for-profit legal services provider serving low-income residents of Alameda County, California. We provide a broad range of services involving family (including domestic violence), housing and consumer law. In addition, we advocate locally and state wide on behalf of the growing limited Proficient speaking population that is often denied access to programs and services to which they are entitled due to language and cultural barriers.

Narika is a Berkeley based domestic violence hotline for South Asian women and is the only Alameda County based organization serving this specific population. Law enforcement is often the first responder to many domestic violence cases, and language access and proficiency are critical components to assisting women in that critical moment.

We believe a strategic and coordinated approach to ensuring language access to police services is an essential component of effective law enforcement. While law enforcement encompasses a

range of public entities such as the district attorney's office, probation departments, courts and others, our comments will focus on our experience with local police departments. Police departments provide critical social services that can impact the health, safety, and civil liberties of all residents. As advocates and service providers we have encountered a number of useful language access strategies adopted by local law enforcement. Some of these include, "I speak cards" in multiple languages, roll-call trainings on how to access interpreters and translators, language access trainings for specific departmental units. While we are encouraged by such discrete strategies, we believe meaningful access for LEP residents is only possible through the development and implementation of comprehensive and strategic language access plans that address all significant aspects of police work. Developing and implementing a comprehensive department language access plan provides a vehicle to develop clear department-wide protocol and trainings on working with LEP residents and also allows departments to conduct ongoing monitoring of language needs, language services and staff capacity.

The following comments outline our experiences as language access advocates in San Francisco and Oakland, California. They are not representative of the entire range of needs or advocacy in this area, but draw on the specific experience and expertise of our respective organizations. The first section provides a brief demographic overview of language needs in San Francisco and Alameda Counties. The second section provides our respective organizations' work with local police departments on behalf of LEP residents. Lastly, the third section outlines key elements we believe are critical to a successful language access plan.

1. Language needs in San Francisco and Alameda Counties

California's Bay Area is comprised of some of the most linguistically diverse populations in the country. This section provides a brief summary of the language needs data compiled from US Census 2000. Detailed language needs are available in attachments A and B.

In Alameda and San Francisco Counties, the most common languages other than English are Spanish and Chinese. Both counties are also home to a high number of LEP residents, i.e. people who responded they speak English "not well" or "not at all." Over thirty-six percent (36%) of Alameda County residents indicated they speak a language other than English at home, of these respondents nearly 18% are limited-English proficient, i.e. they indicated they speak English "not well" or "not at all." In San Francisco County, over 45% of Census respondents indicated they speak a language other than English at home. Of this population 25% are limited-English proficient.

Alameda and San Francisco Counties are also home to a large number of linguistically isolated households. According to the US Census, these are households in which no member 14 years old and over 1) speaks only English or 2) speaks a non-English language and speaks English "very well." Put simply, these are households where everyone 14 or older is limited-English proficient. In Alameda County, 8.7% of all households are linguistically isolated. Over thirty percent (30.5%) of households that speak Asian and Pacific Island languages are linguistically isolated. Twenty-three percent (23%) of Spanish speaking households in Alameda County are linguistically isolated. In San Francisco County, 13.6% of all households are linguistically isolated. Over forty percent (40%) of households that speak and Asian and Pacific Island

language in San Francisco are linguistically isolated. Twenty-two (22%) percent of all Spanish speaking households in San Francisco are linguistically isolated.

2. Overview of advocacy with the San Francisco and Oakland Police Departments

San Francisco Police Department

CAA's has worked closely with the SFPD on language access issues. Over the years CAA and other Chinatown community organizations received complaints from individuals who were having difficulty communicating with the police. The complaints were primarily about the lack of police follow-up to criminal complaints filed by Chinese-speaking individuals. For example, two serious incidents involved assaults on elderly residents by neighbors, where police officers either failed to interview witnesses or were unable to obtain their cooperation. Other incidents involved limited English speaking individuals who had filed crime reports but who had great difficulty obtaining follow-up information from the police or District Attorney's office because of language barriers.

Another reason for our increased concern about law enforcement agencies was that SFPD shot two limited English proficient individuals over a four month period. In November 2003, the police department shot Mr. Xi Tao Wu on a fire escape in Chinatown in response to his father's call for mental health assistance for his son. Mr. Wu, who was having psychotic episode at the time of the shooting, nearly died from the gun shot wound. There were conflicting testimonies from police officers about whether Mr. Wu posed a danger to officers before he was shot. What is not in dispute is that Mr. Wu has no criminal record or history of violence, and that the inability of the police to communicate with Mr. Wu contributed to escalating the situation. On March 1, 2004, police used a "less than lethal weapon" – bean bag gun – to repeatedly shoot a second limited English speaking Chinese man with psychiatric disabilities, Mr. Jian Yu, in the Tenderloin neighborhood. No officer on the scene could speak Mr. Yu's language. Yet, the first request for bilingual personnel was made after the shooting, when the officers began interviewing witnesses.

In response to these shootings, CAA led a coalition of Asian American groups to meet with Police Chief Heather Fong. Although she refused to discuss the two shootings, Chief Fong has been receptive to criticism about her department. She acknowledged that the department currently does not have a good system for communicating with limited English speaking individuals in non-emergency situations and that more training for police officers on interacting with these individuals is needed. After several meetings, SFPD agreed to the following:

- Issue a department wide bulletin to inform officers of the procedures when interacting with individuals who cannot communicate in English, and the departmental resources that are available in these situations (e.g., call for a bilingual back-up, use telephone interpretation services, etc.).
- Develop appropriate training programs to follow-up on the issuance of the bulletin. SFPD is working to develop a video training that will be shown to patrol officers during "roll-call" to reinforce and expand upon the information provided in the bulletin. Community advocates have been asked to help with the training. In addition, SFPD agreed to incorporate training

on how to respond to limited English proficient individuals into a 40-hour Crisis Intervention Training (CIT) program offered to patrol officers on how to deal with people with mental disabilities. Specifically, the training would ask participants to react to scenarios and engage in “role plays” in situations in which patrol officers encounter individuals who have mental disabilities and are also limited English speaking.

- The CIT program currently trains only 300 patrol officers per year. While current budget constraints make it unlikely that SFPD could expand this program, the department agreed to prioritize providing the training to bilingual patrol officers.

Despite these promising steps, issues that still need to be addressed include:

- *Developing a better telephone and follow-up system for communicating with limited English proficient individuals in non-emergency situations.* In particular, a common complaint among limited English proficient individuals is that they have great difficulty following up with the department once a complaint has been filed. In many situations, investigations were apparently discontinued without any effort to contact the crime victims. In a recent public forum held in Chinatown with Chief Fong and District Attorney Kamala Harris, over 20 limited English speaking crime victims raised specific complaints about the failure of the police department to follow up on their crime reports. To Chief Fong’s credit, she spent over 3 hours meeting with these individuals following the public forum and promised to follow up on each of their complaints.
- *Developing a system for tracking and assigning bilingual police officers to neighborhoods with the great language needs.* Chief Fong acknowledged that the department currently does not have the ability to track where bilingual officers serve, which means that the department cannot ensure that there are sufficient bilingual officers in the appropriate neighborhoods.
- *Hiring more bilingual officers.* In the next five years, a significant number of police officers are expected to retire. The department needs to develop an outreach and training program to begin the process of recruiting bilingual officers. The outreach could include collaborating with City College or even community-based institutions to provide language or vocational training to bilingual individuals to help them be prepared when the department begins to hire on a large scale.
- *Developing a community advisory committee to oversee departmental progress.* It will take SFPD some time to develop more language accessible services. The leadership of the department should meet regularly with community advocates to make sure that progress is made.

CAA is reaching out to the SFPD once again to collaborate on establishing an ongoing Language Access Taskforce. We anticipate working with the Department to convene a group of service providers, advocates and officers working with LEP residents of San Francisco.

Oakland Police Department

Since 2000, LCCFF has worked with its Equal Access Division in implementing Oakland's Equal Access Ordinance that requires key departments, including the Oakland Police Department (OPD) to develop a comprehensive language access plan. We have also been a member of the API Coalition to End Domestic Violence in efforts to make law enforcement services responsive to the needs of API immigrants of abuse.

Despite the Ordinance's clear requirements, and the fact that the OPD utilizes a number of discrete strategies to provide language services, there continues to be a lack of a comprehensive plan to provide language services as evidenced by a recent brief survey that we conducted to assess OPD's ability to meet the needs of its immigrant residents. In the course of the assessment, many local precincts failed to respond to requests for information about language services and could not provide basic information about bilingual staffing. Other precincts were more responsive and shared their efforts with advocates.

- *Accessing interpreters*— The OPD states that if an officer encounters a LEP individual whose language the officer does not speak, the officer calls for a bilingual officer who speaks the necessary language. Officers can check the patrol details for a list of on-duty officers and the languages they speak. The patrol desk also maintains a list of bilingual officers. Officers may also enlist the help of a family member or neighbor to assist with interpretation. If an officer is unable to find a bilingual officer, family member or neighbor, the officer calls LifeLine, a telephone interpretation service and holds a three-way conversation between the officer, the LEP individual and the interpreter. If the LEP individual is a suspect, only an officer is used to interpret. If there are no officers on duty who speak the necessary language, an officer will be called in.

- *Serving Oakland Chinatown* — According to the OPD's Chinatown precinct, the primary language of most Chinatown residents is Cantonese, followed by Mandarin. Chinatown is also home to individuals of Vietnamese, Cambodian, Mien, Laotian and Mongolian descent, among others. Currently, foot patrol officers assigned to Chinatown are required to be bilingual in Cantonese and English. There are two foot patrol officers in Chinatown, one for a day shift and one for the swing shift.

As discussed below, one of the most effective means of providing linguistically accessible services is through bilingual officers and staff. OPD currently has six dispatcher positions open and we hope that as in the past the Department will recruit heavily for bilingual applicants. According to the OPD, there is a hiring preference for applicants with bilingual skills in Spanish, Cantonese and Mandarin. Once hired and certified, bilingual dispatchers receive 5% additional pay. Bilingual police officers also receive a bilingual compensation of \$25.00 bimonthly.

- *Diversity trainings* — OPD officer trainees receive diversity trainings as part of their overall orientation and training program. The trainings follow training guidelines issues by the State of California, but are also customized to meet the needs of specific communities. The OPD has an Asian American Cultural Diversity class for new recruits. The class has been taught for the last twenty years by Sgt. Harry Hu. Recently this course has been reduced from four hours to one. Recruits are provided with information about the various Asian ethnic groups residing in the East

Bay, including a brief history of each group's immigration into the United States. Background is provided on the political, religious, and linguistic characteristics of each group. Much of the training is spent addressing problems arising from language and cultural barriers. In addition, Sgt. Hu ends the training with a civilian panel discussion in which members of various communities share their views and expectations of the police department.

- *911 and non-emergency dispatches* — If a bilingual communications dispatcher is on duty, and not busy with another caller when a LEP individual calls 911 or the seven-digit non-emergency police line, that dispatcher may handle the call. Otherwise, the dispatcher connects to a national telephone interpretation center in less than one minute by pushing one button. The interpreter speaks directly with the caller and collects pertinent information. The interpreter then relays the information back to the dispatcher. When sending an officer to the scene, the dispatcher indicates the caller's language needs. If a bilingual officer cannot be sent, the officer at the scene can call the interpretation center and receive interpretation services directly. All communications between the caller and dispatch are recorded so the caller's language needs are tracked if follow up is needed. When an officer calls the interpretation center directly, the communications are not recorded.

Currently, OPD has a contract with Language Line for all of its foreign language interpretation needs, including the seven-digit non-emergency line. Language Line is used throughout the department by dispatch, records, jail division, and individual officers. Officers on the scene who need interpretation services can call Language Line directly from a citizen's home or work phone, or from the officer's own cell phone.

According to the OPD, each month, approximately 400 to 500 calls are made to Language Line by OPD. 95-99% of these calls are for Spanish interpretation. The current contract price for telephone interpretation service is \$0.94 per minute.

When a deaf or hearing-impaired individual calls 9-1-1 or the seven-digit non-emergency line from a Telecommunications Device for the Deaf (TDD) telephone, the TDD on the dispatcher's phone is automatically triggered so the dispatcher can communicate with the caller. Some older TDDs fail to trigger the device on the dispatcher's line. It is standard procedure to manually check for a TDD if the dispatcher receives a call and does not hear anyone on the line. If a deaf caller does not instantly connect with a live dispatcher, an audio message tells the caller to remain on the line. A written message to the TDD immediately follows.

- *Linguistically accessible Neighborhood Crime Prevention Councils (NCPC)* – Officers report that despite the availability of bilingual officers, Chinatown residents remain wary of the police. Officers state that individuals with negative experiences of the police from previous local interactions or from their countries of origin believe the police are unhelpful and avoid interacting with them for a variety of reasons. The Neighborhood Crime Prevention Council (NCPC) meetings held in Chinatown are one way to begin building trust between residents and the police. NCPC meetings are conducted in Cantonese, which has increased the interaction between the police and residents in this community. Cantonese-speaking residents from other neighborhoods also attend this meeting because interpretation is not provided in their own neighborhood meetings.

3. Elements of a successful language access plan

As discussed above, there are a number of common strategies used by departments to serve LEP residents. We applaud these efforts, but believe meaningful access to police services by LEP residents is only possible through a comprehensive department-wide plan that focuses specifically on language services. Absent the adoption of broader policies addressing LEP residents, a department's approach will necessarily remain piecemeal and crisis response oriented. While departments should customize their language services to meet their particular needs, we believe there are certain crucial elements to every language access plan. What follows is not a detailed program plan, but guidelines to consider when developing a department-wide language access plan.

Ongoing and accurate assessment of language needs

Police departments should conduct annual assessments of language needs by precinct. Departments should utilize the most recent US Census data to identify precincts with high numbers of limited-English proficient residents. In addition to determining the languages spoken by limited-English proficient residents, Departments should track the numbers of linguistically isolated households in each precinct. Furthermore, departments should survey local precincts to determine the number of LEP residents seeking language assistance and the number of requests for language assistance by officers.

Ongoing and accurate assessment of staffing capacity by language and precinct

Departments should assess the language capabilities of their officers and administrative staff who interact with the public. Assessments should be structured to inform departments of both languages spoken and the levels of proficiency amongst their staff. Staff language assessments should be used to identify areas of strength and improvement for the departments' ability to deliver in-language police services. Language assessments should also be consulted when determining where bilingual officers are being dispatched. The department should have a tracking system that monitors each precincts' language capacity.

Assignment of bilingual officers to precincts with a high number of LEP residents

Language needs and staff capacity assessments should be used strategically to assign bilingual officers to precincts where there is an identifiable need for in-language services. Bilingual officers should be compensated for their language skills and willingness to relocate to a precinct with high language needs if necessary.

Develop a recruitment and retention plan to increase bilingual staffing in all areas of the department

The most efficient way to deliver meaningful police services to LEP residents is through bilingual officers. Drawing on their language needs and staffing capacity assessments, each department should develop a plan to increase bilingual staff in all areas of the department. Increasing bilingual staffing capacity can include, but is not limited to: targeted recruitment of new bilingual officers; offering language classes to bilingual staff who are proficient in a language other than English, but need to improve their skills to become fully bilingual; providing increased compensation for bilingual officers willing to apply their language skills.

Develop a plan to prioritize and translate documents

All residents rely heavily on written communication from law enforcement to understand how to access police services, to know their civil rights, to be informed of crimes or other safety community concerns, and to participate in the myriad community programs offered by local law enforcement. Translated documents are critical to ensure LEP residents are aware of police services, due process rights, and can fully access and participate in community programs.

Develop a process for identifying documents for translation — Departments should develop clear guidelines and procedures for surveying all existing English and in-language forms, correspondence and resources. Translation priority should be given to documents conveying critical information related to due process and civil rights, e.g Miranda rights. Some other factors to consider when prioritizing documents for translation include, but are not limited to frequency of use, language needs, targeted communities, and nature of the information conveyed.

Ensure quality of translation and interpreters — The quality of translation should be monitored to ensure accuracy and readability. Drawing on focus groups comprised of community members proficient in the languages of translation can provide effective quality control and create mechanisms to involve LEP residents in the process. Agencies also often have second readers review each translated document for accuracy and accessibility.

Ensure adequate funding for language services — Departments should account for the cost of translations, interpreters, and other language service costs in each annual budget. Departments should also coordinate and pool translation resources with other local police agencies to leverage resources. Documents that can be used on a department-wide basis should be translated and disseminated in a centralized manner to avoid duplicative efforts by individual precincts. There should also be a readily accessible centralized pool of translators that have been screened for the quality of their work.

Create a plan to disseminate in-language forms and resources — Finally, departments should develop proactive plans to disseminate and utilize translated documents. Departments should reach out to community groups, schools, social service providers and other agencies working with LEP communities to publicize the availability of in-language documents. Where relevant, officers should conduct additional outreach to specific target communities in need of in-language resources. For example, departments could reach out to organizations serving survivors of domestic violence and LEP residents to conduct public education regarding the police services available in domestic violence cases. Dissemination plans should also be targeted within the department. Care should be taken to inform officers and staff of the availability of translated forms and the proper protocol for working with LEP residents in need of in-language documents or interpretation.

Provide officers and staff with the skills and tools necessary to effectively serve LEP residents

At minimum, all officers and staff should be required to attend regular trainings that inform them of available language service resources. Such resources include translated documents and guides, forms, interpreters and bilingual staff. Trainings should emphasize not only existing resources, but clearly outline procedures for when and how to call upon interpreters. Trainings

should be clear about guidelines regarding the use of family members, children, witnesses, and victims as interpreters. Use of such parties as interpreters presents ethical and other complications that can have tragic consequences. It is not uncommon for batterers to be called upon to interpret on behalf of their victims, or for witnesses to a crime to be asked to interpret in a traumatic situation. Departments should develop and communicate clear protocol for officers in need of neutral interpreters.

In addition to generalized language access and cultural competency trainings, departments should develop trainings and resources for specific units that deliver particularly critical services or work closely with LEP communities. For example, specific trainings should be developed for 911 operators, investigators and officers assigned to hate crimes, and domestic violence units.

Develop a community outreach plan to build relationships with LEP communities

LEP residents regularly face obstacles to fully accessing community services and programs due to language barriers. These obstacles are not limited to police services, but extend to the range of private and public community resources and opportunities. Such barriers can result in LEP residents feeling alienated from the broader community. To effectively serve and reach out to LEP residents, departments should develop strategic outreach and community education plans targeting LEP communities. Departments should nurture relationships with community groups, social service providers, and ethnic media outlets serving LEP communities.

The goal of outreach and community education should be to inform LEP residents of the role of the police department in ensuring public safety and to share resources about the range of department services such as youth sports programs or community policing efforts. Presentations and outreach should be conducted in the primary languages of the target communities.

The experiences of the OPD discussed above highlight how local police should carefully consider issues of cultural competency when seeking to develop relationships with new immigrant communities. It is critical that departments be sensitive to previous negative experiences with police or other state authorities that can color a person's view of the police in the U.S. For example, refugees from various countries are often fleeing systemic persecution at the hands of government officials. Local police should consult with community leaders and service providers to develop culturally competent outreach strategies to address such issues. Outreach efforts to new immigrant and LEP communities should also focus on outlining the process for reporting and investigating crimes. Officers should address concerns about witness or informant safety and create safe channels for community participation in police services.

Establish mechanisms to monitor implementation of language access plan

The Department Chief or an officer reporting directly to the Chief should be responsible for monitoring and implementing the language access plan. The plan should be reviewed and evaluated annually to reflect changing language and resource needs. Community input should be sought to inform this evaluation. New goals should be established and a full assessment of costs should also occur on an annual basis. Finally, there should also be a publicly accessible annual report of the department's overall compliance with both Title VI requirements and the language access plan in particular.

Create an on-going Language Access Taskforce to assist the department in monitoring and implementing the language access plan

Ensuring LEP residents have meaningful access to police services requires creating concrete mechanisms to communicate the department's language access initiatives and to receive feedback from LEP residents. Departments should convene regular Language Access Taskforce meetings that bring together various stakeholders including but not limited to, key officers charged with implementing the language access plan, community leaders and service providers working with LEP residents, translators and interpreters.

We appreciate this opportunity to comment on this important issue. If you have any questions regarding these comments, please contact Luna Yasui, Policy Director at CAA | Center for Asian American Advocacy. She can be reached at (415) 274-6750 and via email at lyasui@caasf.org. For questions regarding the Oakland Police Department practices, please contact Luz Buitrago at (510) 451-9261 or Atashi Chakravarty at (510) 540-0754. Thank you.

Sincerely,



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